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may remain as it is so that we can make such adjustments as may become necessary from time to time. Otherwise, if we pass a resolution now and it is made an order of the House, then there will be difficulty later on when we want to change it. So, I submit that it can remain as it is."

SRI M. NARAYANA KURUP :—" Mr. Speaker, Sir, let me read the relevant rule, Rule 192. It reads : 9-40 a.m.

'As soon as may be after the report has been made to the House, a motion may be moved by a member of the Committee designated by the Speaker "that this House agrees with the allocation of time proposed by the Business Advisory Committee in regard to such and such Bill or Bills," and if such a motion is accepted by the House, it shall take effect as if it were an order of the House.'

"Now, the matter has been reported to the House. Any amendment to be made should be made according to this rule, Sir."

MR. SPEAKER :—" I have no objection if the Hon. Leader of the House wants it to be an order of the House."

\* THE HON. SRI C. SUBRAMANIAM :—" Sir, the wording used in the rule is : 'May be moved.' It is not compulsory that it should become an order of the House. Perhaps some adjustment of timings might become necessary. If it is made an order of the House, then amendments may have to be moved to that order later on. I do not think that it should be made an order of the House. That was the understanding we have arrived at and I think we are sticking to that even without making it an order of the House."

#### V.—GOVERNMENT BILL.

THE MADRAS COURT-FEES AND SUITS VALUATION BILL, 1954.

\* THE HON. SRI C. SUBRAMANIAM :—" Mr. Speaker, Sir, I beg to present the report <sup>a</sup> of the Select Committee on the Madras Court-Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954) and move—

*'That the Bill as amended by the Select Committee be taken into consideration.'*

"Sir, hon. Members of this House are aware that a Select Committee was constituted by this House for the purpose of scrutinising the Bill relating to Court fees and valuation of suits. In addition to Members of this House who were elected to the Select Committee, certain hon. Members of the Legislative Council were also invited to participate in the deliberations of the Select Committee. Being very eminent lawyers, they made a very useful contribution to the work of the Committee in addition to the contributions made by hon. Members of this House. As a result of this,



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the Bill has been improved upon very much and I am sure the Bill as amended by the Select Committee will be more acceptable to this House as also to the lawyer population in the State. The main change made by the Select Committee is with reference to the adoption of market value for purposes of payment of court fees and valuation of suits, in respect of land. In the existing law it is ten times the land revenue for purposes of valuation of suits and payment of court-fees. The proposal in the Bill as originally drafted was to adopt the market value in respect of lands also. After a good deal of consideration and discussion, the Select Committee came to the conclusion that the adoption of the market value might lead to difficulties. The valuation of the subject-matter of the suit itself might take time. In some cases parties might take this valuation question itself in appeal. All these will lead to protracted litigation and unnecessary inconvenience which may not be quite desirable. Therefore the Committee recommended that in respect of land, we might adopt 30 times the land revenue, as basis for valuing suits and for payment of court fees. In my view this is a reasonable compromise. I collected figures from various districts to ascertain the present market value of the land. Originally when ten times the land revenue was fixed for purposes of valuation of suits and payment of court fees, it approximately represented the market value of lands at that time, because the original land revenue itself was fixed on a half-net basis. Now land values have gone up considerably, even though the land revenue has not been increased to any appreciable extent. From the figures that were collected, we found that the lands now bore an increased value. The increase in value ranged from a minimum of 87 times the land revenue to a maximum of 396 times the land revenue, from district to district and from region to region. Considering this, 30 times the land revenue that has been adopted in the Bill as revised by the Select Committee is not a very high figure. My view is, it is a very reasonable figure. Even the Advocates' Association had agreed to the adoption of 50 times the land revenue. Because the Members of the Select Committee insisted that this should be lowered a little further, we agreed to 30 times the land revenue being adopted for valuation of suits and payment of court fees. Various other small matters were also considered by the Select Committee with reference to court fees payable in respect of certain suits and we have made certain changes and the most important change as I have already stated is in respect of adoption of 30 times the land revenue for purposes of payment of court-fees and valuation of suits. That itself made it necessary to make considerable changes in the Bill as originally drafted.

"I am therefore sure, Sir, that the Bill as it has emerged from the Select Committee would be quite acceptable to the House. I do not now propose to take much time of the House in explaining the various changes made in the different clauses of the Bill. The clauses can be discussed in detail when we take up the clause by clause consideration of the Bill. The only other point that I have to answer now is in respect of the criticism emanating from various



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sources, even including persons who have occupied high positions in the judiciary, namely, that the Government of Madras are trying to make a profit out of the administration of justice. That is an ill-informed criticism, to put it mildly. If only the figures are looked into, hon. Members would find that even if this legislation comes into force there will be a huge deficit with which we will be faced in the administration of justice. The figures for 1954-55 are : receipts Rs. 1,32,11,100, expenditure Rs. 1,89,78,534. There is therefore a deficit of Rs. 57 lakhs and odd. Probably there might have been some reduction in receipts on account of the Moratorium Act that we passed last year. Since we have lifted the Moratorium, there will be an increase in receipts by about Rs. 25 to 27 lakhs. Still we will be left with a deficit of about Rs. 40 lakhs in respect of administration of justice."

SRI M. KALYANASUNDARAM :—" In the figures furnished by the Hon. Minister, may I know whether he has taken into consideration the amounts realised under grants given under a separate head? "

\* THE HON. SRI C. SUBRAMANIAM :—" I have taken into account every conceivable receipt and which can be allotted to the head, Administration of Justice. I will pass on the figures to him. He can scrutinize them.

" Then, Sir, if we give effect to the provisions contained in this Bill we expect to get an additional income of Rs. 8 lakhs. We expect to get another Rs. 1,50,000 if the Presidency Small Cause Courts (Madras Amendment) Bill, 1954 is passed. On the whole we expect there will be a net deficit of about Rs. 48 lakhs and odd, even taking into account the various amendments that have now been proposed. Therefore to say that we are trying to make a profit out of the administration of justice is a wrong statement. There is no basis whatsoever for making that statement or for making that criticism.

" Sir, I therefore, request the House to accept the Bill as amended by the Select Committee."

MR. SPEAKER :—" Motion moved—

' That the Madras Court Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954), as amended by the Select Committee be taken into consideration.'

" As was already said by the Hon. the Leader of the House one hour has been allotted for the general discussion of the Bill. The Hon. Minister will reply to the discussion at 10-30. Allowing 10 minutes for a Member I think, I can only allow four hon. Members to speak."

\* SRI V. R. KRISHNA AYYAR :—" Mr. Speaker, Sir, the Hon. Minister for Finance has been rightly sensitive about the criticism that this is not so much a Court Fee Bill as a litigation

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a.m.



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taxation measure. It is a fundamental principle that justice must be made available to the people free of cost or at least cheaply but the figures mentioned by the Hon. Minister for Finance now in his speech show that there is a deficit in the administration of justice. Of course, it is a matter which requires closer scrutiny because I myself was under the impression while going through the budget figures concerning it, that there was no deficit. Anyway, I wish to remind the Hon. Minister for Finance about his Budget speech where he clubbed this Court Fee Bill with the new taxation proposals. That appears to be the keynote of the entire policy of the Government. There is an endeavour to see that more court fee is collected all through under the various heads. One thing that is running from end to end throughout this Bill is this. There is an over all increase in court fee for all kinds of categories of suits. Even the Hon. Minister for Finance was pleased to point out that it was increased to ten times, that is, it is doubled so far as the Madras State is concerned. Originally it was half of that. From five times it is being raised to ten times. From ten times it is being raised to thirty times in the case of agricultural lands. The Government justify it on the ground that the landed property has appreciated in considerable value. But the fact is that the reverse process is in full swing now. The landed property might have appreciated in value during the Second World War and shortly after it when there was the boom period. Now it is not the case and it has considerably gone down. But the court fee is being raised from ten times to thirty times the revenue assessed on the property. I do not know why it should be raised to such a proportion? I would, therefore, commend to this House to restore it at least to the original proportion rather than multiplication by three, as is now proposed in the Bill."

(The Deputy Speaker in the Chair.)

"What do we find in an injunction case? In the former days the court fee was assessed on the estimated value and a suit could be brought in for injunction. Particularly these are cases where the poor man is affected by the aggression of a wealthier person. The poor man rushes to the court and gets an order of injunction passed against the aggressor. In such cases the minimum court fee should be fixed and it should be five times and should not be increased to ten times. Now the minimum has been fixed at Rs. 400. On account of the limited time at my disposal I am not going into details. But I still find that a large class of suits now come under the minimum fixed at Rs. 400. That is certainly wrong. Many of those suits are filed by poor people in the court and if such a heavy minimum court-fee is levied, they will be prevented in seeking remedies in the court. Therefore, it should be computed on the amount at which the relief is sought and valued in the plaint.

"Similarly we find yet another,—I may be pardoned for using the expression—vicious feature in this Bill, that is, defendants have to pay court fees in a large class of suits. For instance in a



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suit for partition, in the former days, it was an unthought of thing to ask the defendant to pay court-fee. Now, he is being asked to pay it in a suit for partition. In view of this provision, a large number of junior members in a Malabar tarwad or for that matter any undivided Hindu family, would be prevented from filing partition suits on the ground that they have to pay court-fees also. The same thing applies to various other people. For instance, in suits where tenants and landlords are involved, the tenants will not be able to ventilate their grievances in the court. Even the Avadi 'touch' is not there and in fact the process is in the reverse.

" Apart from these suits, there are also other elementary and fundamental remedies for which we seek the help of courts. I mean the Constitutional remedies. Now even the constitutional remedies are prevented and the suits arising out of them are taxed higher. Sir, constitutional remedies are really guarantees for aggrieved persons and now an obstacle is put in the exercise of such remedies. Therefore, my submission is that the general trend throughout this Court Fee Bill is on the increase of court-fee and thereby litigation is prevented in the sense that honest poor people are prevented from having their grievances redressed in the court.

" Then, there is the complicated procedure prescribed in fixing court fees. In a democratic set-up the law must be understandable, crisp, and assimilable. The procedure prescribed in the Bill for assessing the court-fee is highly complicated and it will take a lot of time in fixing it. Now various processes have to be gone into for fixing the court-fee. When a plaint is filed and a defendant comes into the picture, other defendants may also be impleaded and then the court-fee has to be revised according to this Bill. If it is to be revised again and again, the ordinary man who goes to the court will find it very difficult to continue the case till the end as his funds will be drained away in the meantime. If the court-fee is to be raised at every stage, the poor litigants will be ruined. It does not benefit anybody. Therefore, I request the Government to avoid all these highly complicated procedures for the fixation of court fees as only the poor people will be affected by it.

" Now I come to the *ad valorem* fee of  $7\frac{1}{2}$  per cent. In this connection, we must consider that a considerable change has been taking place in the country and we cannot adopt this rate of taxation. There must be some reduction as far as this rate is concerned. If the levy of court-fee is not to be a taxation measure and if courts must be resorted to by all people particularly by the poor people, then there must be substantial reduction in the rate. The  $7\frac{1}{2}$  per cent prescribed in the Central Act is being stuck up to in this Bill also. Sir, as suggested in the Dissenting Minutes, the rate of Rs. 7-8-0 has to be reduced to at least Rs. 6-4-0 that is one anna in the rupee. Even though it is not an adequate reduction, any way that is the minimum that everyone can accept. So, generally I feel that the rates of court-fee now fixed for various items are



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very high and the Court Fees and Suits Valuation Bill is a retrograde measure. It is unfortunate that a retrograde measure has been placed before this House at a time when we are making the administration more democratic . . .”

DEPUTY SPEAKER :—“ The hon. Member’s time is up.”

\* SRI V. R. KRISHNA AYYAR :—“ I, therefore, submit that the House may give more thought to the points raised by me and the Government may also consider the revision of the provisions in this Bill so that they may be brought in line with the setting up of a Socialistic pattern of society which the Government have in view.”

10 a.m. \* SRI S. PANCHAKSHARAM :—“ Mr. Deputy Speaker, Sir, at the outset, I have to state that I am not in a position to understand the figures that have been furnished by the Hon. the Finance Minister. He said that he has made an extensive survey of the position in all the districts and has come to the conclusion that the value of the land has increased 87 times in some districts (minimum) and 300 times and more in some other districts (maximum). If that is so, I submit that the income also has correspondingly risen by 87 times. Now, let us take the case of a wet land which pays an annual rental of Rs. 10 per annum.”

\* THE HON. SRI C. SUBRAMANIAM :—“ The hon. Member has completely misunderstood my statement. The value of the land now is estimated to be 87 times the land revenue (minimum) and 396 times the land revenue in certain other cases (maximum). It does not mean that there is an increase of 87 times or 396 times.”

\* SRI S. PANCHAKSHARAM :—“ Understanding it properly, now let me give a concrete example. A land paying an annual rental value of Rs. 10 must be deemed to be worth Rs. 870 or Rs. 3,000 nowadays. I do not know what the pre-war rates were. If the pre-war rate was Rs. 870 or somewhere near that, I cannot understand there is any rise at all. In my own district, first class wet land paying an annual rental of Rs. 10 generally fetches a saleable value of Rs. 800 or Rs. 900. Even now it is just about that. I am talking of the year 1955 and I am not talking of the peak years 1947-48. To-day there are no purchasers for this rate and the value of the land has almost come to pre-war level. Even for that price level, we are not able to find the purchasers. I am not stressing very much on this aspect, but I would like to submit that if, according to the Hon. the Finance Minister, the existing revenue from court-fees is not much and the administration of justice entails in a loss of nearly Rs. 57 lakhs and by placing the proposed Bill on the Statute Book we are going to cover a deficit of Rs. 9 or 10 lakhs out of this Rs. 57 lakhs, then all the trouble we are now taking over this measure is not worthwhile at all. The difference between



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Rs. 57 lakhs and Rs. 47 lakhs is not going to be much and still there is going to be a large deficit. In order to wipe out a small deficit of Rs. 10 lakhs, the entire phase of the old Act is sought to be changed. The entire structure is sought to be changed by the proposed Bill."

\* THE HON. SRI C. SUBRAMANIAM :—" May I inform the hon. Member that deriving a little more income is not the object of the Government. The object is to remove the various anomalies which have been pointed out by the various courts. Incidentally, we get a little more revenue. That is all."

\* SRI S. PANCHAKSHARAM :—" I do not want that the Hon. the Finance Minister should misunderstand me at all. I am here just to point out some of the difficulties experienced by the mofussil lawyers in the working of the Court Fees Act. My object is nothing else."

THE HON. SRI C. SUBRAMANIAM :—" Sir, I was not practising in the High Court. I was practising only in the mofussil."

\* SRI S. PANCHAKSHARAM :—" With due deference to the Minister, the Hon. the Finance Minister in his Budget speech on the 26th February 1954 at page 14 said : '*Revision of the Court Fees Act* : This is not exclusively a revenue measure. There are several anomalies in the existing Act and the revision has been under consideration for some time. The new Bill may give a slight increase from the yield from court-fees'. I agree with that proposition. Courts have very often expressed difficulties. They recognise the cardinal principle that Court Fees Act being an Act, it has to be interpreted in favour of the subject, but in spite of that they were confronted with a number of difficulties and had to decide against the subject and in doing so, they found several anomalies. I shall quote one or two instances. Suppose a man files a suit for possession of a whole estate or part of an estate, say exactly half or one-fourth. He was entitled to value it at ten times the annual revenue payable to Government and pay court-fees on it. Suppose out of a plot of 2 acres, a man wants to sue for 99 cents. Then he has to pay court-fee on the market value of the property. The difference in this case will work out to Rs. 100. In the former case, the man pays court-fees under section 7 (v) (b), viz., at ten times the annual revenue payable to Government. He could satisfy the provisions of the Court Fees Act by paying Rs. 10 or Rs. 15. But if he files a suit for 99 cents in a plot of 2 acres, he has to pay about Rs. 100 extra. This was one anomaly.

" There were other anomalies also. With reference inam lands, i.e., lands which are not paying annual revenue to Government, the litigant was asked to pay fifteen times the net profits arising from the land during the year next before the date of presenting the plaint. If in the previous year he got about 20 kalamis



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of paddy from one acre of land, he had to calculate the value of the 20 kalams of paddy and then multiply it by fifteen. So, if it is ryotwari land, it is enough if he pays a court-fee of Rs. 10. But if it is an inam land, he has to pay Rs. 110.

“Let us take another example. Suppose a usufructuary mortgagee files a suit.”

DEPUTY SPEAKER :—“The hon. Member's time is up. He has got only one minute.”

\* SRI S. PANCHAKSHARAM :—“Sir, I require some two or three minutes.”

DEPUTY SPEAKER :—“It is not possible to allow more time.”

\* SRI S. PANCHAKSHARAM :—“Then I will even now stop straightway.”

DEPUTY SPEAKER :—“The hon. Member may continue his speech.”

\* SRI S. PANCHAKSHARAM :—“Suppose there is a usufructuary mortgage for Rs. 1,000. If the man has been put in possession of the properties, he can value the plaint under section 7 (v) (b), as though it is a title suit. If the man has not been put in possession of the properties, he has to value the plaint as one for specific performance of a contract and has to pay court-fees on Rs. 1,000, viz., Rs. 112-7-0. In the ordinary circumstances he will be liable to pay Rs. 10 but because he has not been put in possession of the properties, he has to pay Rs. 112-7-0. Such were the anomalies that were experienced and the Courts had difficulty in deciding in favour of the subject. They had to follow strictly the provisions of the Act.

“Another cardinal principal underlying the Law of Court-fees is that there should be no evasion of tax in cases like partition. If a man sues for partition and is in joint possession of the property, he has to pay a fixed court-fee of Rs. 15 in a Munsif's Court or Rs. 100 in a Sub-Court or District Court, whatever be the value of the property. A litigant values the plaint in whatever way is advantageous to him. Suppose if joint possession is advantageous to him, he says he is in joint possession. If he thinks that exclusion is advantageous to him, he says that he has been excluded from possession. There are so many methods by which payment of court-fee is evaded. The cardinal principle should be that there should be no evasion of payment of court-fees. The court-fee collected should enable the Government to carry on the administration of justice, without being a burden to the tax payer. If the



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Hon. the Finance Minister wanted to set right some of these anomalies, it was open to him to set right those anomalies. He need not have changed the entire structure of the Act.

“ Sir, among many changes that have been effected in this Bill, <sup>10-10 a.m.</sup> the important change made is that the market value of land on which an assessment is payable to Government should be adopted at thirty times instead of ten times as has been fixed under the present Act. My submission in this connection is that this raising of the limit from ten times to thirty times would have been all right if this measure had been brought forward seven or eight years ago. Seven or eight years ago, when the Stamp Act was being amended, in respect of registration of partition documents, the value of the land was increased from five times the annual rental value to 25 times the annual rental value for purposes of fixing the stamp fees payable to the Government. But under the present Bill, it has been raised to 30 times which is very excessive.

“ I would like, in this connection, to refer to the views expressed by some eminent persons regarding increasing court-fees payable to Government. On 29th October 1954, Justice Shaw of Bombay High Court stated at the Lawyers' Conference as follows :—

‘ The sense of frustration and bitterness that over-power a litigant who reasonably believed that he has a true and just claim but was unable to obtain redress on account of the insuperable barrier of expenses beyond his means is a fruitful source of hostility towards the present order of things.’

“ Again the former Justice of the Supreme Court, Sri Mahajan, on 3rd July 1954 at New Delhi pointed out that in some cases as much as one-third of the value of civil suits went into the State revenues and that such heavy duty on ‘ Justice ’ was not wholly justified and that it was beyond the reach of common-man about whose welfare the State was so keen, to obtain justice in the Courts of the country and he could only get it by getting himself involved in debt and committing some crime. He also quoted the United States example where court-fees were merely nominal. Dr. K. N. Katju has also said that justice must be taken to the doorstep of the villager. In conclusion, I wish to state that drastic revision of the provisions of the present Act is not called for at the present time and that our Government should not go against established canons of jurisprudence.”

SRI S. SWAYAMPRAKASAM :—“ Sir, this measure is a very important one, from the point of view of the public as well as from the point of view of the Government. The Hon. the Leader of the House pointed out that this Bill had been brought forward by the Government with a view to remove certain anomalies in the present Act. He also admitted that they would be getting some enhanced revenue as a result of passing this Bill. This will create an impression in the minds of the people that this Bill is intended to be a taxation Bill by the Government. When the Government take into consideration the question of rectification of certain anomalies present in the present Act, they should also take into consideration whether the present time is propitious for bringing about changes in



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the present Act. My submission is that the introduction of this Bill at the present time is very inopportune. The Hon. the Leader of the House also stated that it was not the intention of the Government to get additional revenue for the Government by introducing this measure. In that connection, he quoted figures to show that the Department of Administration of Justice was working at a loss during the years 1953-54, and 1954-55. But the Hon. Minister did not quote the figures for the period prior to 1953-54. Prior to 1953-54, the Government were not incurring any loss at all. I very well remember the conversation I had with the Hon. the Minister for Finance in his chamber. Mr. Viswanatham was also present then. When I stated in the course of our conversation that retrenchment could be effected by abolishing certain courts, the Hon. the Minister for Finance said, 'Why bother about it.' Prior to 1953 the Department of the Administration of Justice was not working at a loss at all. Even now if the Government would abolish certain courts which have no work at all—I know there are certain courts which do not have even half hour work a day—then the Department of the Administration of Justice would not work at a loss at all. The Hon. the Minister in charge of Finance said that the value of land was going up. It might be so two years back. But to-day the value of land is going rapidly down. Especially after the passing of the Moratorium Act, the Agriculturists' Indebtedness Relief Act and other Acts, the value of land has considerably fallen. There is no demand for land at all. To say that the value of land is going up and that therefore the court-fee payable to the Government can be enhanced is not justifiable. The Hon. the Minister for Finance stated that certain Bar Associations recommended that 50 times the annual rental value of land should be fixed as the market value of the land. I am unable to find out from the report of the Select Committee which Bar Association had stated so. (The Hon. the Minister for Finance: 'Provincial Bar Federation.') The general opinion is that land value is going down. Again, Sir, in a Welfare State, the Government should not aim at making profit in the matter of administration of justice. When the rights of private individuals are in dispute, it is the duty of the Government to settle the dispute and render justice. The Government should not put themselves in the position of a businessman. The economic condition of the people has not improved. The purchasing power of the people and their standard of life have not improved. Therefore, there is no justification for increasing the rate of court-fees payable to Government. Unless a person has got enough money, he cannot go to a Court of Law and establish his case. The Government have not made any attempts to improve the economic position or the standard of life of the people. But instead they have come to increase the court-fees. There is no justification at all for increasing the market value of the land from ten times the annual rental value to 30 times the annual rental value. Even for filing vakalats, the court-fee payable has been increased, in this Bill, by half a rupee. Even before presenting the petition, an ordinary man will have to pay half a rupee more for filing vakalats. Therefore, Sir, this Bill has been brought forward more with a view



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to get additional revenues from the Government. In my view the introduction of this Bill is very unfortunate and it is not going to give any relief to poor people at all."

\* **SRI R. KRISHNAN** :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, കോട്ട് ഫീ 10-20 ഫാററേറ്റ് 7½ ക. സാഗതമാക്കണമെന്നുള്ളതിൽ കൂടിയുടെ വില കണക്കാക്കുമ്പോൾ a.m., നീക്കത്തിന്റെ 30 ഇരട്ടി എന്ന തോതു സാധിക്കുന്നത് കക്ഷികളെ വളരെയധികം വികലപ്പെടുത്തുമെന്നുള്ളതിന് സംശയമില്ല. സെലക്ട് കമ്മിറ്റി ശുപാർശ ചെയ്തിരിക്കുന്ന ഫീസ് വലുതായ വളരെ ബുദ്ധിമുട്ടുള്ള കാരണമാകുമെന്നാണ് എന്റെ അഭിപ്രായം. ഇന്നത്തന്നെയും കോടതിയിൽ പോകുന്നവരുടെ ഇടയിൽ ഒരു പട്ടമൊഴിയുണ്ട്; ‘ജയിച്ചാൽ തുറന്ന ഫലം, തോറ്റാൽ ചത്ത ഫലം’ എന്നു, കോടതിയിൽ കയറിപ്പോയവർ വ്യവഹാരം അവസാനിച്ച് തീർപ്പു കിട്ടുന്നതുവരെ കക്ഷികൾക്കു അത്രയധികം വിഷമങ്ങൾ അനുഭവിക്കേണ്ടേണ്ടിയിട്ടുണ്ട്. അങ്ങിനെയിരിക്കുമ്പോൾ കോട്ട് ഫീസ് ഇനിയും വലുതാക്കുന്ന കഥ പറയാനില്ലല്ലോ. നിയമപ്രകാരം കൊടുക്കേണ്ട ഫീസ് കൾ മറ്റുമല്ല ഒരു കക്ഷിക്കു ചെലവു വരുന്നത്. കോടതിയിൽ ചില പിടിച്ചു പറ്റുകൾ നടപ്പിലുണ്ട്. കോടതിയിലെ പ. ബി. പ്രോസസ് സേർവ്വീസ്, ക്ലാക്ക് തുടങ്ങി എത്രയോ പേർ കൈകൾ കൊടുക്കേണ്ടിയിരിക്കുന്നു. നടപടി ക്രമത്തിലുള്ള ചില പ്രത്യേക സമ്പ്രദായങ്ങൾ കൊണ്ടു പലപ്പോഴും കക്ഷികൾക്കു ദോഷമുണ്ടാകുന്നു. എക്സ് പാട്ടി വിധികളുണ്ടാകുന്നുണ്ട്. കക്ഷിക്കു കേസിനെപ്പറ്റി യാതൊരു വിവരവുമില്ലാത്തതിനാലായിട്ടു. സമർസ് പതിച്ചു നടത്തുക എന്നൊരു സമ്പ്രദായമുണ്ട്. കക്ഷി അറിയാതെ റഫറന്സായി പതിച്ചുനടത്തി എക്സ് പാട്ടി വിധിയുണ്ടായി കഴിഞ്ഞാൽ ജഡ്ജി ചെയ്താൻ ആമുൻ വരുമ്പോഴായിരിക്കും കക്ഷി സംഗതി മനസ്സിലാക്കുന്നത്. ഇത് വലിയ അശുഭമാണ്. ഇതിന്റെ പരിഹാരമായി കൺക്രൂടെ നല്ല ഒരു നടപടിക്രമം കണ്ടുപിടിക്കേണ്ടിയിരിക്കുന്നു.

“ഇന്നു സഭ തീർച്ചപ്പെടുത്തുന്നതിനുവേണ്ടി കൂടിയുടെ വില കണക്കാക്കുന്നത് നികുതിയുടെ പത്തരട്ടിയായിട്ടാണ്. അത് ഈ ബില്ല് അനുസരിച്ച് 30 ഇരട്ടിയായിരിക്കുകയാണ്. ഒപ്പതു ഇരട്ടി എന്ന പറയുന്നത് വളരെ കൂടുതലാണ്. പതിനഞ്ചോ ഇരുപതോ ഇരട്ടിയിൽ കൂടാൻ പാടില്ലെന്ന അഭിപ്രായമാണ് എന്നുള്ളത്.

“ഡിക്റ്റേഷൻ സൂട്ടുകൾക്കു കുറഞ്ഞത് 400 ക. ക്ക് കോട്ട് ഫീ വേണമെന്നു ശരിക്കുന്നത് പാവപ്പെട്ട കിട്ടിയില്ലാത്തതും ചെറുകിടക്കാരും ചെറു കൃഷിക്കാരും മറ്റും വലിയ വിഷമമുണ്ടാകുന്നതാണ്. നാനൂറു ഉറപ്പിക എന്നുള്ളത് 200 ക. ആയിട്ടെങ്കിലും കുറയ്ക്കണമെന്നാണ് എന്റെ അഭിപ്രായം.

“പഞ്ചായത്തുകോട്ടുകളും മൈൻ പഞ്ചായത്തു ബോഡികളും ഇന്ന് 50 ക. വരെയുള്ള സിവിൽ കേസ്സുകൾ വിചാരണ ചെയ്തു തീരുമാനിക്കുന്നുണ്ട്. ഈ തുക വലുപ്പിച്ചാൽ പാവങ്ങൾക്ക് വലിയ ഉപകാരമായിരിക്കും. ഇന്ററൂറുകൾ വരെയുള്ള കേസ്സുകൾ എടുക്കുന്നതിനു പഞ്ചായത്തു കോട്ടുകൾക്കും മൈൻ പഞ്ചായത്തു ബോഡികൾക്കും അധികാരം കൊടുക്കുന്നത് നന്നായിരിക്കും. ഇന്ന് പഞ്ചായത്തു കോടതിയുടെ തീർപ്പിന്മേൽ അപ്പീൽ കൊടുക്കണമെങ്കിൽ ഹൈക്കോർട്ടിൽ പോകേണ്ടിയിരിക്കുന്നു. സാധാരണക്കാരെ സംബന്ധിച്ചേടത്തോളം അതുകൊണ്ട് വളരെ ബുദ്ധിമുട്ടുണ്ട്. അപ്പീലധികാരം സെഷൻസ് കോടതികൾക്ക് നൽകുന്നത് അഭിലഷണീയമായിരിക്കുമെന്നാണ് എനിക്കു തോന്നുന്നത്. പഞ്ചായത്തു കോട്ടുകളുടെ പ്രവർത്തനത്തെ ശരിയായി നടത്തുന്നതിനുവേണ്ടി സെക്ഷ്യൂട്ടറുകൾ കിട്ടാതെ അവർ വിഷമിക്കുന്നുണ്ട്. ഒരു ഉദാഹരണമിതാ—പാലക്കാട് താലൂക്കിൽ കൊച്ചുതറ ഒരു പഞ്ചായത്തു കോടതിയുണ്ട്. ഓണററി മജിസ്ട്രേട്ടാണ് അവിടെയുള്ളത്. കോടതിക്ക് ആവശ്യമുള്ള ഫാറങ്ങൾക്കും പേപ്പേർസിനും വേണ്ടി കലക്ടർ എഴുതി അയച്ചിട്ട് ഒന്നൊന്നര കൊല്ലമായിട്ടു കലക്ടർ നിന്നും അതിനു ഒരു മറുപടിപോലും ഇതേവരെ കിട്ടിയിട്ടില്ലെന്നാണ് എന്റെ അറിവ്. ഈ നില തുടരുന്നത് പഞ്ചായത്തു കോടതികളുടെ പ്രവർത്തനത്തെ സുഗമമായി നടക്കുന്നതിനുള്ള സംഹാപ്യം ചുരുക്കലാണ്. മൂന്നു കൊല്ലം കഴിയുമ്പോൾ പഞ്ചായത്തു കോടതി



[Sri R. Krishnan]

[29th March 1955]

തികളിലേക്ക് എലക്ട്രിക് നടത്തണമെന്ന് ചട്ടമുണ്ടെങ്കിലും അത് മിക്കപ്പോഴും നടപ്പിൽ കാണുന്നില്ല. കാലാവധി കഴിഞ്ഞാലും പുതിയ തിരഞ്ഞെടുപ്പു നടത്താതിരിക്കുന്നത് വളരെ തെറ്റായ ഒരു സമ്പ്രദായമാണ്. മൂന്നു കൊല്ലം പുതിയായാലുടനെ തന്നെ പുതിയ തിരഞ്ഞെടുപ്പു നടത്താൻ പ്രത്യേക ശ്രദ്ധിക്കേണ്ടതായുണ്ട്. ഏലായിട്ടും ഒരുമിച്ചു തിരഞ്ഞെടുപ്പു നടത്തിയില്ലെങ്കിലും മൂന്നു കൊല്ലം തികഞ്ഞു ആളുകളുടെ സ്ഥാനങ്ങളിലേക്കെങ്കിലും പുതിയ തിരഞ്ഞെടുപ്പു നടത്തിതന്നെ തീരണം.

“പഞ്ചായത്തു കോടതികളിലെ പ്രോസസ്” ശിപായിമാരെപ്പറ്റിയും ഈ സന്ദർഭത്തിൽ രണ്ടുവാക്ക് പറയണമെന്നുദ്ദേശിക്കുന്നു. എട്ടു ലക്ഷികയാണ് അവരുടെ ശമ്പളം. അതുകൊണ്ട് എങ്ങനെ ജീവിക്കാനാണ്? ജീവിക്കാൻ തക്ക നിലക്കെങ്കിലും അവരുടെ വരുമാനമുയർത്തണം. വക്കീൽ ഗുരുസ്ഥനാണെന്നും ചിലതു പറയാതിരിക്കാൻ നിവൃത്തിയില്ല. അവർക്ക് സ്ഥിരമായ ശമ്പളമില്ല. കക്ഷികളിൽനിന്നു കിട്ടുന്ന ഫീസ്സാണ് അവരുടെ വരുമാനം. അതുകൊണ്ട് കക്ഷികളിൽ ചിലർ ചില ഗുരുസ്ഥന്മാരുടെ പലതരത്തിലുള്ള കൊള്ളക്കും പിടിച്ചുപറിക്കും വിധേയരാവുന്നു. കക്ഷികൾ കോട്ടിൽ കെട്ടി വെക്കാൻ പണം കൊടുത്താൽ കോട്ടിൽ കെട്ടിവെക്കാതെ വിഴുങ്ങിക്കളയുന്ന ഗുരുസ്ഥന്മാരുണ്ട്. സ്റ്റാമ്പിന്റെ വേലിലും മറ്റും പണം തട്ടിക്കുന്നതിൽ ചില ഗുരുസ്ഥന്മാർ വിരുതന്മാരാണ്. അതുകൊണ്ടു വക്കീൽഗുരുസ്ഥന്മാരെ സംബന്ധിച്ച ഒരു നിയമമുണ്ടാക്കേണ്ടതു് അത്യാവശ്യമായ ഒരു കാര്യമാണ്. ഭാരത കൗൺസിലും ഇത്രയത്ര ഫീസാണ് ഒരു ക്ലിപ്പും വെക്കണം. അല്ലെങ്കിൽ ഗുരുസ്ഥന്മാർ ക്ലിപ്പുമായ മാസപ്പടി നിശ്ചയിക്കണം. കോടതികളിലെ പിടിച്ചുപറ്റി ഭയന്നു, ന്യായമായ കാര്യങ്ങൾക്കുവേലും കോടതിയിൽ പോകാതെ കഴിക്കുന്ന ആളുകളുണ്ട്. ഇങ്ങനെ കോടതികളെ സംബന്ധിച്ചുടത്തോളം ഇന്നു നിലവിലുള്ള ബുദ്ധിമുട്ടുകളും ക്രമക്കേടുകളും എന്തെല്ലാമാണെന്ന് അന്വേഷിച്ചു അവയുടെ നിവാരണത്തിനായി ഒരു പുതിയ നിയമം തന്നെ സൂക്ഷിക്കേണ്ടതു് അത്യാവശ്യമാണ്.

“കോട്ടഫീസ്സിനെ ഒരു വരുമാനമാറ്റമായി ഗണിക്കാൻ പാടില്ല. എന്നുവെച്ചാൽ സ്റ്റാമ്പിന്റെ ഒരു വസ്തു എന്ന നിലക്കു കോട്ടഫീസ്സിനെ കണക്കാക്കുന്നത് തെറ്റായിരിക്കും. കോടതികൾ നാട്ടുകാർക്കു ചെയ്യുന്ന സേവനത്തിനുള്ള പ്രതിഫലമെന്ന നിലക്കു ചെലവിന്റെ ഒരു ഭാഗം കക്ഷികളിൽനിന്നു ഈടാക്കിയെടുക്കുക എന്ന തത്വത്തോടു് ഞാനും യോജിക്കുന്നു. പക്ഷെ കോട്ടഫീസ്സ് ഗവണ്മെന്റിന്റെ ഒരു വരുമാനമാറ്റമായി കണക്കാക്കപ്പെടുകയാണെങ്കിൽ സാധകർക്കും സാധാരണ ജനങ്ങൾക്കും നീതി കിട്ടാൻ സാധിക്കാതെ വരും. സെലക്ട് കമ്മിറ്റി റിപ്പോർട്ടനുസരിച്ചുള്ള നിരക്കുകൾ വളരെ കൂടുതലാണ്. അതിനു പല ഭേദഗതികളും ഇവിടെ വന്നിട്ടുണ്ട്. ആ ഭേദഗതികൾ വരുമ്പോൾ ഗവണ്മെന്റ് സഹതാപപൂർവ്വമായ ഒരു നിലപാടു് സ്വീകരിക്കണമെന്ന് അപേക്ഷിച്ചുകൊണ്ടു് എന്റെ പ്രസംഗം അവസാനിപ്പിച്ചുകൊള്ളുന്നു.”

10-20  
a.m.

\* SRI M. NARAYANA KURUP :—“ Mr. Deputy Speaker, Sir, our judiciary has been receiving a fair amount of praise and we are proud of it. Sir, the Hon. the Finance Minister pointed out that the department was working at a deficit. Assuming what he says is correct, the duty of the Government is to make justice accessible to the poor and at the cheapest rate and understandable procedure. But I dispute the statement that this department is working at a loss. (Interruption by the Hon. Finance Minister.) Before I proceed the Hon. Minister need not interrupt me. Sir, in this year's Budget there is a provision for judiciary of Rs. 94,48,300 and then under Administration of Justice and minor items, there is a provision of Rs. 44,00,300 which makes a total of Rs. 1,38,48,600 and the expenses to be debited to that is only Rs. 1.6 lakhs under stamps. The expenses shown under the head Administration of Justice is Rs. 127.69 lakhs; I would like to know what else the Hon. Finance Minister has included in that. Therefore, according to me there is a net gain of Rs. 10 lakhs under this head. Now I am making



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a further point. In 1954-55, the original estimate under stamp was Rs. 130 lakhs which was converted to 90 lakhs under the revised estimate and the reason given was the Moratorium Act. I agree. Now the Hon. Finance Minister himself admitted that there might be an increase. And according to my showing there is a net gain of Rs. 50 lakhs under this head and this is subject to correction. Therefore, this department is not at all working at a loss.

“ As has been pointed out, even from the smallest item, namely, copy application which has been increased from annas 2 to annas 4 there is a general flat increase on all items of court-fees, the most important being, as has been mentioned, that the market value is to be calculated at 30 times instead of 10 times the assessment. Even if we calculate it at double the rate, the income will be much more. The Hon. Finance Minister has given the figure as Rs. 8 lakhs. It is very low and an under-estimate. If I remember right, the Hon. Minister himself, while introducing the Bill, suggested that it may be to the tune of about Rs. 25 lakhs. That is my recollection. So, it is not true to say that it is working at a loss. Even to-day, it is fetching revenue to the Government and when this Bill is enacted, the income will be much more. We agree that the Court Fees Act like any other law has to be simplified and rationalised. But, opportunity is now taken to enhance the court-fees, which naturally affects the litigants who are not able to get cheap and easy justice even now. Even in the matter of rationalisation, they adopt that rate which is suitable to them. One of our contentions is that the market value for assessed lands, say 10, 20 times or whatever it is, must be applicable to all sorts of suits. That is rationalisation. But, in this Bill, it is confined only to suits under certain sections. So, the point is very clear that the Government are aiming more at getting revenue than effecting rationalisation. Then, it has been said that the flat rate of Rs. 7-8-0 has been prescribed. Even according to the table given, we find that court-fee for a valuation of Rs. 50,000 which was Rs. 1,700 previously will now be more than Rs. 3,750. So, though there may be some disadvantage at one end, there is advantage at the other. In this respect also, the fixation of a flat rate of Rs. 7-8-0 will in no way entail any great loss to the Government.

“ About finality and other matters, I will deal with them when we come to the clauses. According to my estimate of the working of this department, it is not at all working at a loss. On the other hand, it is bringing revenue to the Government.”

\* THE HON. SRI C. SUBRAMANIAM :—“ Mr. Speaker, the main points made are with reference to the adoption of the value of the land at 30 times the assessment on the land. The other point is that there has been a general increase in the court-fees payable by the litigants. With reference to the first point, I wish to point out that in the existing enactment the general rule is to adopt the market value. But with reference to land alone, we have said,



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'thirty times the survey assessment on the land.' As far as the other categories are concerned, we have not made any change whatsoever. If the hon. Members should think that the adoption of market value will be more advantageous, even now I am prepared to adopt it. But, I may tell the hon. Members that 'thirty times' does not represent even half the market value. It is much less. It will be one-tenth of the market value in certain cases. When all other properties are made to pay court-fees on the market value, I do not know why we should adopt anything less than thirty times the assessment so far as lands are concerned. Unlike the income from other properties, the income from the lands do not come under the Income-tax Act. Those who get income from lands are not required to pay income-tax. Therefore, I cannot see how the lands are less valuable than other kinds of properties and why a different kind of evaluation should be made in the case of lands. Still, I could understand the plea that the agriculturists should not be put to great difficulties and that we should show some concession to them. We have already shown some concession to them. Instead of adopting the market value, we have said 'thirty times the survey assessment on the land.' In 1870 when land revenue was almost the same as it is now, they fixed it at five times. What was the value of land in 1870 and what is the value of the land now? It is 10 times, 15 times or 20 times more than the market value which prevailed in 1870. What we are now adopting is only six times more than what they adopted in 1870. Even with reference to the land, only certain categories of land come under this calculation, viz., the multiple of land revenue payable. We have got permanently-settled estates and non-permanently settled estates. Taking all factors into account, we have fixed this thirty times. Even now lands are enjoying an advantage over other kinds of properties. Hon. Members—especially the lawyer Members—may know that in respect of a portion of the estate or a portion of the land which has not got a separate patta, a person has to pay sometimes a greater amount than the one for the whole estate or whole land. This was an anomaly which has been pointed out by various High Courts and this anomaly has now been removed. This is the justification for our adopting thirty times the land assessment. As a matter of fact, we have shown a good deal of concession to the agriculturists and the agricultural lands. Therefore, still if it is argued that we are trying to increase the value of the land for purposes of court-fees beyond a justifiable limit, I am afraid it has no basis whatsoever and such criticism is not justified. That is my humble submission. We lawyers are clever in putting our own case and trying to ignore the other points involved and other points which are advantageous to the other side. Every hon. Member argued that court-fee has been increased. But, they have failed to take note of the fact that as a matter of fact there has been a decrease with reference to the rate of court-fee payable up to Rs. 1,000. Now, a litigant has to pay court-fees at the rate of Rs. 11-4-0 per Rs. 100, up to Rs. 1,000. This has now been reduced to Rs. 7-8-0 under this Bill. What is the consequence of this? The hon. Members will perhaps be interested to know how



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many suits are affected by this Bill. There are 1,42,000 suits the value of which is below Rs. 5,000. The number of suits, the value of which is above Rs. 5,000 is 1,900. Thus, 1,900 suits will be affected by the increased court-fee. On the other hand, hereafter people will have to pay a lesser court-fee in respect of about 1,40,000 suits. These people will get the advantage of the decreased court-fee. This being the case, it is not fair to argue that there has been a general increase in court-fee. While the poor litigants, whose number is about 1,40,000, get the advantage of the decreased court-fee according to this Bill and while only a few people, about 1,900 or so, are asked to pay a little more than what they are paying now, I do not know how hon. Members like Mr. Krishna Ayyar are justified in criticising the Government."

SRI M. KALYANASUNDARAM:—"I did not attack that aspect of the Government amendment. What I said was in respect of certain other aspects which ran counter to this policy." 10-40 a.m.

\* SRI S. PANCHAKSHARAM:—"Sir, I should like to bring to the notice of the Government and the Hon. Finance Minister that no doubt the rates have been made uniform with reference to suits ranging from Rs. 500 to Rs. 1,000. We were collecting higher rates before. But as we go on for suits above Rs. 10,000 and above the rate is something else . . . ."

\* THE HON. SRI C. SUBRAMANIAM:—"If the hon. Members had only listened to me they would have found that about 140,000 litigants would be getting the benefit of the reduction and only about 2,000 litigants will be asked to pay a little more. This is the important point that hon. Members should bear in mind. Even here we have been keeping in view the Socialistic pattern even though the hon. Member Sri Krishna Ayyar may not see anything in it. According to him all these things are merely propaganda. It is open to him to have his own point of view in all these matters. Only 2,000 people are asked to pay more while there has been a reduction allowed to about 140,000 people. That is the scheme which we have adopted. But still hon. Members go on criticising. (Interruption.) Of course he did not criticise but he did not give credit to us for that. This important factor should be taken into consideration in considering the measure as a whole. When we have given relief to such a large number of people and that too to a considerable extent, I submit it is not open to hon. Members to say that there has been a general increase. We have increased the rate only so far as the higher category is concerned. That is also what the hon. Member Sri Panchaksharam Chettiar wanted to point out. He was saying: 'Higher category people are paying less. They should be made to pay more'. Now that is the policy of the Government, that is, the lower income groups should pay less and the higher income group should pay more."

"Sir, with reference to the point made by the hon. Member Sri Narayana Kurup that from the figures made available under the head 'Administration of Justice' it did not appear there was any



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deficit at all, I may tell him there are various other heads under which expenditure incurred in connection with administration of justice, is debited. Take for instance, expenditure incurred for General Administration. If a calculation were to be made nearly 10 per cent of that expenditure ought to go under 'Administration of Justice'. Then the charges under 'Stationery', about Rs. 13 lakhs have to be debited to 'Administration of Justice'. Then again Rs. 10 lakhs charged to 'Printing' are not shown under 'Administration of Justice'. There are other heads of accounts such as 'Civil Works, Maintenance of buildings, etc.', to which charges relating to 'Administration of Justice' are debited. Similarly about Rs. 22 lakhs being pensionary charges which ought to go under 'Administration of Justice' is charged under a different head. Therefore if a proper allocation were to be made, hon. Members will find there is really a deficit under the head 'Administration of Justice'. Therefore there is no use in arguing, taking only figures given under a particular head, that there is no deficit under 'Administration of Justice'.

"Finally, Sir, I may say that the justification for this Bill is that we are conferring a benefit on a large number of litigants, 140,000 of them and only about 2,000 will be affected by this Bill, as they will have to pay a little more than what they were paying before. In view of the Socialistic pattern of society we are aiming at, this itself is enough justification to get through this Bill."

MR. SPEAKER :—"The question is—

'That the Madras Court-Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954), as amended by the Select Committee be taken into consideration.'"

The motion was put and carried.

MR. SPEAKER :—"Now let us take up clause by clause consideration of the Bill."

Clause 3 was put and carried.

#### Clause 4.

MR. SPEAKER :—"Motion moved—

'That clause 4 do stand part of the Bill.'"

SRI S. PANCHAKSHARAM :—"Mr. Speaker, Sir, I move the amendments standing in my name, namely—

'(1) In the proviso, omit the word "whenever".'

'(2) In the proviso, for "exhibition in a Criminal Court or exhibition", substitute "if a document by an accused shall not be prohibited in a Criminal Court by reason of the fact that no proper fee has been paid thereon".'



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The amendments were duly seconded.

SRI P. S. KRISHNASWAMY AYYANGAR :—" Mr. Speaker, Sir, I move the amendments standing in my name, namely—

- (1) *In the proviso, for the words " to prevent a failure of justice ", substitute the words " for the purpose of acting on such document and preventing a failure of justice ".*
- (2) *Add at the end of the proviso the words " and acting upon such document ".*

SRI M. JAGANNATHAN :—" I second the amendments, Sir."

SRI M. NARAYANA KURUP :—" Mr. Speaker, Sir, I move the amendment standing in my name, namely—

- *Add the following further proviso :—*
- *Provided further that no finding or decision of any court or officer shall be deemed to be invalid merely on the ground that a document was filed, admitted, recorded or acted upon without payment of proper or sufficient fee chargeable under this Act.*

SRI S. S. KOLKEBAIL :—" I second the amendment, Sir."

MR. SPEAKER :—" Now the clause as well as the amendments are before the House for discussion."

\* SRI M. NARAYANA KURUP :—" Mr. Speaker, Sir, my amendment is to add the following further proviso, namely—

- *Provided further that no finding or decision of any Court or Officer shall be deemed to be invalid merely on the ground that a document was filed, admitted, recorded or acted upon without payment of proper or sufficient fee chargeable under this Act.*

" Clause 4 lays down that no document shall be filed, exhibited or recorded in or be acted on or furnished by any public officer, unless in respect of such a document there be paid a fee of an amount not less than that indicated as chargeable under this Act. It may be that due to inadvertence on the part of the office, or the Judge or of the parties concerned, the document might be admitted without the proper stamp or insufficiently stamped. There is a provision in the Stamp Act to allow such documents to be filed. My submission is, supposing a document is admitted and acted upon and it goes in first appeal or second appeal. Then it is found out that it was not sufficiently stamped or the prescribed fee had not been paid, and the document is not admitted. My apprehension is on that ground that document should not be rejected, as that would result in revising the findings. Therefore when once the documents are admitted they should not be ignored in subsequent proceedings. The only remedy open is it may be impounded, and the amount short paid may be recovered from the party concerned. If the amendment suggested is not incorporated in the Act, it would mean that in further proceedings the whole document might be ignored by the concerned authorities and the whole proceedings of the lower



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court or other courts will be vitiated. It is only as a guard against such a contingency that I have proposed this amendment, Sir. I submit there cannot be any possible objection to accept my amendment."

\* SRI S. PANCHAKSHARAM :—" Mr. Speaker, Sir, my objection is simply this. In criminal cases, in most of them if not in all, the liberty of the subject is involved. If the main question of the liberty of the person or the guilt or innocence of a person is to be established depending on a scrap of paper, then why should that scrap of paper be liable to a stamp duty, penalty or any such thing at all. In most cases people may not know, even many magistrates may not know the Stamp Law or the Court Fees Law. If we are to leave the matter to the discretion of the Magistrates, I fear, the discretion may not be properly exercised, particularly when it involves the liberty of the subject, and the party has to face a criminal charge; my submission therefore is that the document should be received in evidence, taken into records and a decision arrived at, whether the document is sufficiently or insufficiently stamped."

10 50  
a.m.

\* SRI P. S. KRISHNASWAMY AYYANGAR :—" Mr. Speaker, Sir, the proviso to this clause says that a criminal court may accept a particular document even though it has not been properly or sufficiently stamped. The object of the court in exhibiting such a document is to prevent failure of justice. By mere exhibiting of the document failure of justice cannot be averted. The court should be enabled to act upon the document that has not been indicated in the proviso. Therefore, my amendment suggests not only the exhibiting of the document but also acting on that document. For the purpose of preventing failure of justice, the Court should have authority or power not only to exhibit it but also to act upon that document. If it has not got power to act upon it, then the document exhibited will merely lie in the records, as a fancy article, without any value at all. The criminal court may have to decide whether there has been a criminal intention or act and whether there has been a *bona fide* claim of civil right. For coming to a conclusion on these points, it will have to look into the document and act upon it. Merely looking into the document and taking no further step in the matter will not in any way prevent the failure of justice. If the object of the framers of the Act is that failure of justice should be prevented, then the courts should be given power to act upon that document also. That is the object of my amendment."

\* SRI K. PARTHASARATHY :—" Sir, there is some controversy about the wording of the proviso. The proviso closely follows the provision made in section 33 of the Court Fees Act. The whole difficulty comes when we read that portion of clause 4 which says—

• No document which is chargeable with fee under this Act shall—

(i) be filed, exhibited or recorded in, or be acted on . . .



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The phrase 'acted on' is newly introduced in this clause which is not found in sections 4 and 6 of the present Act. Section 6 says—

' . . . no document . . . shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer

So also in section 4 of the Act, the phrase 'acted on' is not there. Section 4 says—

'No document . . . shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts . . .'

It appears that this phrase 'acted on' has been adopted from the Stamp Act. But anyhow since it does not convey any meaning other than for 'filed or exhibited' I think the words 'acted on' are not necessary. So I think the amendment of Sri Krishnaswamy Ayyangar is unnecessary."

SRI S. RAMALINGAM :—" Sir, the proviso says—

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'Provided that, wherever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is in the opinion of the Court necessary to prevent a failure of justice.'

"இந்தப் ப்ரோவைஸோ பிரகாரம் கோர்ட்டார் ஒரு குறிப்பிட்ட தஸ்தாவேஜை அந்தக் கோர்ட்டில் தாக்கல் செய்யவில்லையானால் அதைத்தடுப்ப தன்மூலம் நியாயத்திற்கு விரோதம் ஏற்படும் என்று கருதினால் அதற்கு ஸ்டாம்பு குறைவாக இருந்தாலும் அதை ஏற்றுக் கொள்ளலாம் என்றும் அது அனுமதிக்கப்படலாம் என்றும் சொல்லப்படுகிறது. சர்க்காருடைய கவனத்திற்கு ஒரு விஷயத்தைக் கொண்டு வர ஆசைப்படுகிறேன். ஒரு குறிப்பிட்ட தஸ்தாவேஜையை கோர்ட்டில் அனுமதிக்கப்பட்ட பிறகுதான் அது நீதிக்குத் தேவையானதா இல்லையா என்பதைத் தெரிந்து கொள்ள முடியும். முன்னதாகவே அதைப்பற்றி தெரிந்து கொள்வது என்பது சிரமமாக இருக்கும். முன்னதாகவே முடிவு செய்யமுடியாது. பனிரெண்டா ஸ்டாம்பு ஒட்டிய பிறகு அதை கோர்ட்டில் அனுமதித்தால்தான் அது நீதிக்கு விரோதமாகிறது என்று கண்டுபிடிக்கமுடியும். அதை அனுமதிக்காவிட்டால் அதன் தன்மையை கண்டுபிடிக்க முடியாது. அதன் மேல் நியாயம் வழங்க முடியாது, நிதி வழங்குவதற்கு பங்கம் ஏற்படும் என்பதைச் சொல்லுகிறேன். கிரிமினல் கோர்ட்டுகளில் குற்றவாளிகளை கோர்ட்டில் நிறுத்தி வைக்கப்பட்டிருக்கும்போது ஒரு தஸ்தாவேஜையை கோர்ட்டில் சமர்ப்பிக்க விரும்பலாம். அப்பொழுது கோர்ட்டுக்கு ஸ்டாம்பு இருக்கக் கூடாது என்று விதி விலக்கு அளித்து விட்டால் தொந்தரவு இருக்காது. அதைப்பற்றியும் யோசிக்க வேண்டும் என்று நான் கேட்டுக் கொள்ளுகிறேன்."

\* THE HON. SRI C. SUBRAMANIAM :—" With regard to the points made by the hon. Member, Sri Krishnaswami Ayyangar, I want to make a general submission. I am intelligent enough to catch his point and he need not repeat it and try to din into my ears the same point again and again.

"As for his amendment subsisting the words 'for the purpose of acting on such document and preventing a failure of justice', once a document is exhibited, it becomes legal evidence which has got to be looked into, and therefore, there is no question of giving powers to the court to act upon it. Once it is accepted as a legal evidence, then that evidence will have to be considered and it is going too far to say that the court will not act upon it and will merely exhibit it. Therefore, his amendment is quite unnecessary. Sir,



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in certain cases the content of the document as such may not be admissible but the fact of that document being in existence may be relevant. So, it is quite unnecessary.

“ Now I come to the point raised by the hon. Member, Sri Narayana Kurup. Here what we are concerned is the fee payable on a certain document. What is the legal consequence of not paying it, is, I think, found in the Stamp Act. Suppose a document is admitted by mistake but later on it has been found in the Appellate Court that it has not been properly stamped. The man who filed it will be called upon to pay more and it would not be straightaway rejected. It is unnecessary, as we are concerned with the fee payable for the filing of a document. As I said, if it is found later on that the proper stamp is not affixed, there are other procedures in the Act to recover it. Therefore, his amendment is also unnecessary.

“ Then I come to the point raised by the hon. Member, Sri Panchaksharam, in his amendment. His amendment is also quite unnecessary. We have made provision in the proviso that when a court comes to the conclusion that a certain document is necessary in the interests of justice, then it will be admitted whether it is stamped or not. The hon. Member knows that now only lawyers are being appointed as magistrates and they are learned persons and I do not think that they will commit mistakes. Sometimes even High Court Judges or Supreme Court Judges commit mistakes and we need not provide for mistakes by officers in this proviso. If a particular document is necessary for the administration of justice, it will be admitted by the criminal courts. Therefore, I do not think that this amendment is also necessary. Under these circumstances, I am unable to accept the amendments and I oppose them.”

SRI M. NARAYANA KURUP :—“ Of course, if it is found afterwards that the proper fee has not been paid by a person, he can pay it afterwards. Such a provision should be included in the Bill itself. I visualize a case where a fee is not paid. What is to become of the document? It is to avoid that difficulty I have moved my amendment.”

\* THE HON. SRI C. SUBRAMANIAM :—“ Simply because a mistake has been committed by one court, that does not mean that when it is brought to the notice of the appellate or revisionary court, they will not rectify it by directing the person concerned to pay the prescribed fee. So, I do not think that it is necessary to include such a provision in this clause.”

11 a.m. SRI S. PANCHAKSHARAM :—“ Sir, I have not much to say by way of reply.”

\* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, in sub-clause (ii), the expression used is ‘ be filed, exhibited or recorded in any public office or be acted on ’. Therefore, exhibiting does not necessarily lead to acting on it. These are two quite different things. Taking action on it does not necessarily flow from it. What is



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stated as not having been prevented is exhibiting or filing and not specifically acting upon it. For the sake of clearness, I have given notice of the amendments."

THE HON. SRI C. SUBRAMANIAM :—" Sir, once a document is exhibited, it will have to be acted upon. Once it is legal evidence, it will have to be acted upon."

MR. SPEAKER :—" Is the hon. Member Sri Panchaksharam pressing his amendments? "

SRI S. PANCHAKSHARAM :—" Sir, I am withdrawing my amendments."

The amendments were by leave of the House, withdrawn.

SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, I am withdrawing both of my amendments."

The amendments were, by leave of the House, withdrawn.

SRI M. NARAYANA KURUP :—" Sir, I am also withdrawing my amendment."

The amendment was, by leave of the House, withdrawn.

MR. SPEAKER :—" The question is—  
' That clause 4 do stand part of the Bill.' "

The motion was carried.

*Clause 5.*

MR. SPEAKER :—" The motion is—  
' That clause 5 do stand part of the Bill.' "

SRI S. PANCHAKSHARAM :—" Sir, I move the amendment standing in my name, viz—

*' In line 7, after " as may be fixed ", insert " or extended ". '*

The amendment was duly seconded.

MR. SPEAKER :—" Amendment moved—

*' In line 7, after " as may be fixed ", insert " or extended. '*

\* SRI S. PANCHAKSHARAM :—" As it is, Sir, the Court may, in its discretion allow a person by whom such fees are payable to pay the fees or part thereof, as the case may be, within such time as may be fixed. I want that the time so fixed should be extended, because once the time is fixed and if it is made a conditional order, it may work a great hardship. Therefore, discretion must be given to the court to extend the time."



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\* THE HON. SRI C. SUBRAMANIAM :—“ Sir, as it is, there will be no difficulty. The court can always extend the time. Then we should insert the words ‘ or extended or further extended ’. It is open to the court to extend the time and there will be no difficulty. I do not think the amendment is necessary.”

The amendment of the hon. Member Sri S. Panchaksharam was by leave withdrawn.

MR. SPEAKER :—“ The question is—  
‘ That clause 5 do stand part of the Bill.’ ”

The motion was carried.

Clause 6.

MR. SPEAKER :—“ The motion is—  
‘ That clause 6 do stand part of the Bill.’ ”

SRI S. PANCHAKSHARAM :—“ Sir, I move the amendment (No. 200) standing in my name—

‘ In line 1, for “ Multifarious suits ”, substitute “ Suits for multifarious reliefs ”.’ ”

The amendment was duly seconded.

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move my amendment (No. 3)—

‘ For the existing sub-clause (2), substitute the following :—

“ (2) Where reliefs—whether single or in groups—based on the same cause of action are sought in the alternative in any suit,

(i) if the fees respectively chargeable on the several alternative reliefs are equal, the plaint shall be chargeable with one such fee alone; and

(ii) if such fees are unequal, the plaint shall be chargeable with that fee alone which is either the highest or one of the highest of such fees.” ’ ”

SRI M. JAGANNATHAN :—“ Sir, I second the above amendment.”

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move the amendments standing in my name (Nos. 107 to 109)—

‘ In sub-clause (2), for the words “ with the highest . . . on the reliefs ”, substitute the words “ with fee on the one relief that is highest in value among alternative reliefs ”.

‘ In sub-clause (3), line 3, omit the words “ either alternatively or ”,



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' For the existing proviso, substitute the following :—

*" Provided that where reliefs are sought alternatively, the plaint shall be chargeable only with the highest of the fees chargeable on them." "*

SRI S. RAMALINGAM :—" Sir, I second all the amendments."

MR. SPEAKER :—" Both the clause and the amendments are now before the House for discussion."

SRI P. K. GOPALAKRISHNAN :—" Sir, my amendment to sub-clause (2) is only intended to make the position more clear. It is stated in the clause that the plaint shall be chargeable with the highest of the fees leviable on the reliefs. It is not very clear. My amendment reads : ' The plaint shall be chargeable with fee on the one relief that is highest in value among alternative reliefs '. I think this will make the position more clear.

" My next amendment to sub-clause (3) is more important. When alternative reliefs are sought, there is no necessity for charging the plaint with the aggregate amount of the fees. When alternative reliefs are sought, the Government may charge court-fees only on the highest of the reliefs and not on the aggregate amount of the reliefs. The one argument that Government may raise will be that when a suit embraces two or more distinct and different causes of action, then the plaint shall be chargeable with the aggregate amount of the fees. Even then the plaintiff is seeking only an alternative relief and he is not seeking cumulative reliefs. In such cases, it is only proper and reasonable that the court-fees should be charged only on the highest of the reliefs sought. I hope the Government will accept my amendments."

\* SRI S. PANCHAKSHARAM :—" Sir, my amendment is a simple one. I just want to change the title of the clause from ' Multifarious suits ' into ' Suits for multifarious reliefs '. Multifariousness is a rule of procedure under which a party files a suit containing two flaws, namely misjoinder of parties and misjoinder of causes of action. What the Court Fees Act contemplates is that on the same cause of action the party is entitled to multiple reliefs, that is to more than one relief. If he is entitled to ask for more than one relief, he can do so and ask for more than one relief on the same cause of action. Therefore, I think that the wording may be altered."

\* SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, my amendments relate to sub-clause (2). The wording of that sub-clause is defective in more than one respect. It runs thus : ' Where more reliefs than one based on the same cause of action are sought in the alternative in any suit, the plaint shall be chargeable with the highest of the fees leviable on the reliefs '. When alternative reliefs are sought, there should necessarily be more than one relief. Therefore, it is meaningless to say ' where more reliefs than one based on the



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same cause of action are sought in the alternative.' It is enough to state 'when reliefs are sought in the alternative'. When there are alternative reliefs, there should necessarily be more than one relief. Lawyers would not accept the wording 'where more reliefs than one are sought in the alternative'. Again, in the latter portion of the sub-clause, it is stated 'the plaint shall be chargeable with the highest of the fees leviable on the reliefs'. Highest of the fees' may give room to the interpretation that the aggregate of the fees leviable on all the alternative reliefs should be charged. To make the position clear, I have given notice of my amendments. Alternative reliefs may contain more than one relief. I have stated that if the fees respectively chargeable on the several alternative reliefs are equal, the plaint shall be chargeable with one such fee alone. If the alternative reliefs are of the same value, then the court-fee chargeable should be on one of those reliefs alone. Suppose the value of all the alternative reliefs are not equal some of them alone being equal. Then the plaint shall be chargeable with that fee alone which is either the highest or one of the highest of such fees. Suppose there are four alternative reliefs. Suppose three of them are of the same value and the fourth is of a lower value. In such cases, one of the highest fees alone will have to be paid in respect of all the causes of action. If such fees are unequal, then the plaint should be charged with the highest fee alone. So, to make the position clear, I have suggested these amendments and I hope the Government will see their way to accept them."

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a.m.

\* THE HON. SRI C. SUBRAMANIAM :—" Sir, as regards the amendment given notice of by hon. Member Sri S. Panchaksharam substituting for the heading 'Multifarious suits' the title 'Suits for multifarious reliefs', I do not think that the change is necessary. Here 'Multifarious suits' mean 'suits for various reliefs' and not merely for one relief. The words used in the Civil Procedure Code need not be brought in here because they are used in a technical sense there. The heading given under the present Act is the same as the one proposed in the Bill.

" With reference to amendments given notice of by hon. Member Sri P. S. Krishnaswami Ayyangar, I am afraid, they are quite unnecessary. The existing provisions in clause 6 themselves carry the meaning which he wants to bring out by means of his amendments. There may be one relief or group of reliefs alternatively prayed for and that is why this clause has been guardedly drafted. After all, what has been provided for here? When alternative reliefs have been prayed for, it is not our intention to levy fees for each of the reliefs prayed for and our intention is that the plaint shall be chargeable only with the highest of the fees chargeable on them. This provision has been copied from the Central Provinces Act and I am sure the Courts will not find any difficulty in interpreting this provision.

" As regards the amendment moved by hon. Member Sri P. K. Gopalakrishnan, the language of the clause as it is is very



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clear and the amendment suggested by the Member does not improve the language of the clause at all. Only one relief is charged for and there is absolutely no need to change the language."

The amendment moved by hon. Member Sri S. Panchaksharam (No. 200) was by leave of the House withdrawn.

The amendment moved by hon. Member Sri P. S. Krishnaswami Ayyangar (No. 3) was by leave of the House withdrawn.

MR. SPEAKER:—" May I know whether hon. Member Sri P. K. Gopalakrishnan is withdrawing his amendments (Nos. 107, 108 and 109)? "

SRI P. K. GOPALAKRISHNAN:—" I am withdrawing amendment No. 107 only."

The amendment (No. 107) moved by hon. Member Sri P. K. Gopalakrishnan was by leave of the House withdrawn.

MR. SPEAKER:—" The question is—

' In sub-clause (3), line 3, *omit* the words " either alternatively or " " "

The amendment was put and lost.

MR. SPEAKER:—" The question is—

' *For* the existing proviso, *substitute* the following:—

" Provided that where reliefs are sought alternatively, the plaint shall be chargeable only with the highest of the fees chargeable on them " " "

The amendment was put and lost.

MR. SPEAKER:—" The question is—

' That clause 6 do stand part of the Bill ' "

The motion was put and carried.

### Clause 7.

MR. SPEAKER:—" The motion is—

' That clause 6 do stand part of the Bill. ' "

SRI M. NARAYANA KURUP:—" Sir, I move the following amendments:—

' In sub-clause (2), for the words " The market value . . . shall be deemed to be . . . ", substitute the words " Unless it is otherwise provided, the market value of land in suits falling under this Act shall be deemed to be " . . .

' In sub-clause (2), item (a), for the word " thirty ", substitute the word " twenty " " "



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SRI S. S. KOLKEBAIL :—" I second the amendments."

SRI P. K. GOPALAKRISHNAN :—" Sir, I move the following amendments :—

*' For the words " thirty times ", wherever it occurs, substitute the words " ten times ".*

*' In sub-clause (2), line 2, after the figures " 38 ", insert the figures and letters " 42 (d), 42 (e) ".*

*' In sub-clause (2), item (g), for the words " its market value ", substitute the words " five times its annual rental value ".*

SRI S. RAMALINGAM :—" Sir, I second the amendments."

SRI M. KALYANASUNDARAM :—" In the light of the amendment moved by hon. Member Sri M. Narayana Kurup, I am not moving amendment No. 250. However, I am moving the following amendment :—

*Add the following as new sub-clause (h) :—*

*" (h) Where the land is a building situated in a panchayat or municipal area ten times the panchayat or municipal assessment as the case may be."*

SRI S. RAMALINGAM :—" I second the amendment."

SRI S. PANCHAKSHARAM :—" I move the following amendment :—

*' In sub-clause (2) (g), " after " house-site " insert " or vacant site ".*

The amendment was seconded.

SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, I am moving the following amendment :—

*' In sub-clause (2), item (g) after the words " not falling within the foregoing description ", insert the words " including buildings ".*

The amendment was seconded.

SRI S. PANCHAKSHARAM :—" I move the following amendment :—

*' For " thirty ", substitute " fifteen " wherever it occurs in this clause.'*

The amendment was duly seconded.

SRI Y. MANJAYA SHETTY :—" Sir, I move the following amendment :—

*' In sub-clause (2), item (g), for the words " its market value ", substitute the words " thirty times the survey assessment on the land and the market value of the building thereon ".*

The amendment was duly seconded.



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SRI S. RAMALINGAM :—“ Sir, I move the following amendment :—

*‘ After the existing sub-clause (2), insert the following new sub-clause :—*

*“ (3) The market value of the house shall be deemed to be ten times of the municipal or panchayat board tax as the case may be. ” ’ ’ ’*

SRI M. KALYANASUNDARAM :—“ I second the amendment, Sir.”

MR. SPEAKER :—“ Both the amendments and the clause are now before the House for discussion. Hon. Member Sri M. Narayana Kurup will now speak.”

\* SRI M. NARAYANA KURUP :—“ Sir, this is one of the important if not the most important clause in this Bill and this is the most controversial clause. I shall explain the purpose of the two amendments I have moved. My first amendment seeks to make the market value whatever it be—15 or 20 or 30 times—applicable to all classes of suits. It has been pointed out that the purpose of the present Bill is to rationalize the system of levying court-fees and to simplify the procedure. For certain types of suits a notional value has been put upon assessed lands and there is no reason why the same principle should not be extended to other types of suits also, such as those covered by clauses 41, 42, etc. The provisions of this clause (7) do not apply to suits referred to in other clauses. My first amendment seeks to remedy this defect.

“ My second amendment seeks to reduce the 30 times the assessment to 20 times the assessment. The Hon. Minister was saying that if lands falling under other categories are to be valued at the market value and not on the notional value, why it should not be so for assessed lands also. I would counter his arguments by saying that if only this one item of land is to be valued on notional basis it may not be of much difference if a slight increase or decrease is made because in respect of other lands it is on the basis of market value.

“ If we do not adopt the notional value, it will entail in unnecessary and prolonged litigation even at the initial stage of assessing the value of land. A Commission will have to be appointed in every case and the Judge will have to decide on their report. Again, the matter may go on appeal, and the whole matter will again be reopened. It is very easy for parties except in cases of valuation of buildings to come to an understanding or to an undisputed value with reference to waste lands or other unnecessary lands. Therefore, by reason of that, in respect of other lands the notional value is not accepted is no argument in respect of this because this is the most important item as I said. Sir, when once it is accepted, it is logic and it is rational to extend it to all types of suits.



[Sri M. Narayana Kurup] [29th March 1955]

11-20  
a.m.

Of course, as has been pointed out, there were discussions and suggestions even at the Select Committee stage about this clause. Many Members wanted that the market value should be fixed at 15 times the assessment on the land, and the Hon. Minister wanted it at 50 times. Ultimately it was fixed at 30 times. Now, it will be admitted that the offer given by the Hon. Finance Minister relates to a period when prices of commodities were very high; but, now the tendency is just the reverse. It has been pointed by more than one hon. Member that we are gradually drifting and the price level is coming almost the pre-war level. Therefore, when we consider how much the notional value must be, we must take into consideration the falling prices; also, as has been pointed, because of the expected agrarian reforms and so many other things, the value of land is on the decline. Since my amendment seeks to put the rate at 20 times instead of the original 10 times, it doubles the existing rate. I submit that this is a very fair proposal and I hope the Government will find their way to accept this and make consequential amendments in respect of subsequent clauses where 30 times is mentioned."

\* SRI P. RANGASWAMY REDDIAR :—" Mr. Speaker, Sir, once the Hon. the Finance Minister gave an assurance on behalf of the Government to the members of the Select Committee that it was not the intention of the Government to get any profit out of litigations; this morning also he made a similar assurance during the general discussion. I wish to draw the attention of the Hon. Finance Minister to these and also to the remark reported to have been made by the Central Home Ministry in its report that 'it is not fair that a suitor in civil courts should be made to pay large court-fees for the benefit of the Exchequer and that the State should, so to say, not live upon the quarrels of the people . . .'"

THE HON. SRI C. SUBRAMANIAM :—" Should we subsidise quarrels of the people? "

\* SRI P. RANGASWAMY REDDIAR :—" Certainly now, Sir. The Hon. Finance Minister and I do not go to the hospitals, to the jails or to the police stations; still we are asked to pay taxes for the maintenance of these institutions. Therefore, it may not be proper to say that those who resort to courts of law only should be made to pay heavily for the maintenance of these institutions. Now under the existing Court Fees Act, for the recovery of possession of on immovable property for which a kist of Rs. 10 is paid, ten times the kist would be Rs. 100 and the court-fee payable now is Rs. 11-4-0. According to the proposed Bill, for the recovery of possession of the same property, the value would be Rs. 300 and the court-fee to be paid would be Rs. 22-8-0 that is double the amount which is now payable. Though the Hon. the Finance Minister would not fail repeatedly to point out that there is a reduction of court-fee from Rs. 11-4-0 to Rs. 7-8-0, the illustration I gave just now would show how in the shape of reduction it is really enhancement by hundred per cent.



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“ This is an important clause and this is similar to the existing section 7 of the present Court Fees Act. Some hon. Members suggested 20 times and some others 30 times and still some wanted only 10 times that is to say, to retain the present state of affairs. This morning the Hon. Finance Minister made a remark that lawyers, both here and elsewhere would be pleased by the amendments made by the Select Committee, as if the lawyers would have to pay court-fees; they are not affected either by the reduced or enhanced court-fees. In many cases court-fee is paid in the first instance by the plaintiffs and subsequently the defendants have to pay ultimately. Therefore, the burden of court-fees is on the litigants and not upon the lawyers. I do not see how lawyers would be affected either by the enhancement or reduction. (The Hon. Finance Minister: ‘Don’t you see?’) The wearer alone knows where the shoe pinches. There is initial difficulty for the litigants to pay and that is a little bit true.”

SRI A. RAMASAMY TEVAR :—“ Sir, may I know whether the hon. Member just now speaking is speaking on his behalf or on behalf of the lawyers? ”

MR. SPEAKER :—“ I cannot understand why he should not speak.”

\* SRI P. RANGASWAMY REDDIAR :—“ I speak not only on behalf of myself and on behalf of the lawyer members, but also on behalf of litigants including Mr. Ramaswami Thevar. (Laughter.)

“ Sir, it is now ten months ever since the Bill went before the Select Committee. Since then, the prices have gone down. I do not think it necessary to dwell very much upon the half-net theory and the half-net principle in fixing court-fees. When the Court Fees Act was drafted, are we to understand that a land paying a kist of Rs. 1-2-0 was really getting an annual income of Rs. 2-4-0 only? Nobody would accept that that the kist or the revenue was fixed upon the half-net principle, that is taking into account only the net income and 50 per cent of the income was sought to be fixed for the revenue. I do not think it is correct to say so and I need not dwell very much upon that point. I would think rather liberal exceptions might have been granted in assessing the revenue and also there was no court-fees in those days. We should bear in mind that after all if justice is not done freely to the people, at least it should be done on moderate basis. I think there was a good deal of bargaining at the Select Committee stage and the Hon. Finance Minister came down from market value, ultimately to 30 times. Not only members on this side, sitting in the Opposition, but members behind the Treasury Benches are also pleading for moderate fees and if any enhancement is necessary, Government should not view this as though they have invested any capital and therefore there should be a return. My definite view



[Sri P. Rangaswamy Reddiar] [29th March 1955]

is that there would not be any loss and therefore 10 times or 15 times may be accepted, for that will be benefiting the general litigant public alone."

\* SRI V. R. NAGARAJAN :—" Mr. Speaker, Sir, as this is an important clause in the Court Fees Act, I wish to say a few words, though it may be only in conformity with the views expressed by many hon. Members who have spoken already. I was also a Member of the Select Committee and I had also an opportunity to say my bit on the number of times of the annual assessment by which a litigant will have to pay court-fee. The limit I had pleaded for in the Select Committee was only 20 times. Now there are amendments for 15 and 20 times. The Hon. Finance Minister said during the first reading of the Bill that there was an association of lawyers which also recommended 50 times the annual assessment, though it was not possible to know which that association was—it should be an abnormal association functioning in the State. I submit there is no relevant case made out for fixing the assessment at more than 20 times. In view of the land values fast falling down, in view of the present trend in the market, in view of the scarcity for money and non-flow of capital, in view of the expectation of the people for land reforms, I submit that 20 times would be the best principle and I hope the Hon. Finance Minister would agree to this suggestion."

11-30 a.m. \* SRI S. PANCHAKSHARAM :—" Sir, the Hon. the Minister for Finance in the initial stages of the discussion said that people filing suits for amounts ranging between Rs. 500 and Rs. 1,000 have to be shown some concession, as the number of such people, who are poor, is really large. He also stated that people who filed suits for more than Rs. 10,000 have been called upon to pay more, i.e., it is only the rich people who are asked to pay enhanced court-fee and that it was in accordance with the idea of socialistic pattern of society that we have set before ourselves. I entirely agree with him. Therefore, I do not want to talk much on that subject. But, I only want to request the Hon. Finance Minister to extend that principle to the small litigants. People who go to Munsif's Courts and file small title suits are now called upon to pay only a very small court-fee ranging from 8 annas to Rs. 15 or Rs. 20, on the basis of 10 times the present value. Under the clause under discussion, it is sought to enhance the rate to thirty times. In some of the following clauses it is stated that the court-fee will be computed on thirty times the assessment of Rs. 400 whichever is higher. According to this Bill, small litigants who have been hitherto paying 8 annas, Re. 1, Rs. 5 or Rs. 10 will be called upon to pay a minimum court-fee of Rs. 30. This is a double disadvantage which will work against the interests of the poor litigants. In accordance with his own statement that we are framing this Bill according to the idea of socialistic pattern of society, the Hon. Minister for Finance will do well to look into the case of these poor litigants who constitute about 85 per cent of the litigant public who go to courts seeking some remedy or other. If we are to reach our goal, these poor people should be given



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some relief and if the enhanced court-fee that is sought to be applied to them is not applied to them, it will really be a boon to those people. It is only with this idea in view I have suggested 15 times. The Government may not lose much. On the other hand, a large number of poor litigants will certainly be saved to a great extent."

\* SRI C. H. KANARAN :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, വസ്തു സംബന്ധമായ 11-43  
വ്യവഹാരങ്ങൾക്കു കോട്ടഹീസ് എന്താണ് കൊടുക്കേണ്ടതു് എന്നുള്ളതിനെപ്പറ്റി മ.മ.,  
വ്യവസ്ഥ ചെയ്യുന്ന അതിപ്രധാനമായ ഒരു വകുപ്പാണിതു്. കോട്ടഹീസ് വലുപ്പിച്ചു  
കൊണ്ടു് വരുന്നതും വലുപ്പിക്കാനുള്ള ഉദ്ദേശം ഗവണ്മെന്റിനുള്ളതു് എത്രതന്നെ  
അവർത്തിച്ചാലും ശരി, ബഹുമാനപ്പെട്ട മന്ത്രിയോടു് അതുവരെ ബഹുമാനമുള്ള പർ  
പോലും സമ്മതിക്കും കോട്ടഹീസ് വലുപ്പിച്ചു വരുന്നതിനോടുകൂടുന്ന ഒരു ശ്രമ  
മാണു് ഇവിടെ നടന്നുകൊണ്ടിരിക്കുന്നതു് എന്ന്. റവന്യൂ അസെസ്സ്മെന്റിന്റെ  
പത്തരതി എങ്കളതു് ഇപ്പോൾ മുപ്പതു് ഇരട്ടിയായിരിക്കുകയാണു്. ഇതു് വലുത  
മല്ല എന്ന് മന്ത്രി കരുതുക തന്നെ പറഞ്ഞാലും അതു് വലുതല്ലാതാകുന്നില്ല. രണ്ടു  
രണ്ടു നഷ്ടപെടുന്നതു് മൂന്നാണെന്നു് മനസ്സിലാക്കണമെന്നു് മന്ത്രി പറഞ്ഞാൽ അതിന്റെ  
അർത്ഥമെന്താണു്? പത്തരതിയെന്നുള്ളതു് മുപ്പതിരട്ടിയായിക്കണമെന്നു് ബില്ലിൽ വ്യക്ത  
മായി പറഞ്ഞിട്ടുള്ളതു് ഏതു കർത്തവ്യം മനസ്സിലാക്കും. എന്നിട്ടു മന്ത്രി പറഞ്ഞുകൊ  
ണ്ടിരിക്കുകയാണു് ഇത്രയും വലുതായെന്നു് കോടതിയിൽ പോകുന്നതു് പണ്ടുകാൾ  
മാത്രമല്ല സാധുക്കളും സാധാരണക്കാരായ ആളുകൾക്കും ധാരാളമായി കോടതി  
യിൽ പോകേണ്ട ആവശ്യം നേരിടുന്നതു്. സാധുക്കൾക്കും വലിയ ബുദ്ധിമുട്ടുകൂടാതെ  
നിതി ലഭിക്കണമെന്നുള്ളതിൽ ഇന്നു് നിലവിലിരിക്കുന്ന പത്തരതി വില എന്നുള്ളതു്  
മാറ്റാനേ പാടില്ല എന്നാണു് എന്റെ അഭിപ്രായം. വലുപ്പിച്ചു തീരു എന്ന് ഗവ  
ണ്മെന്റു് നിർദ്ദേശം വിടിക്കുകയാണെങ്കിൽ 15 ഇരട്ടിയെന്നോ 20 ഇരട്ടിയെന്നോ  
വച്ചുകൊള്ളട്ടെ. അതിൽ കൂടുതൽ കുറിക്കുക വാഗ്വച്യം കൊടുക്കാൻ സാദ്ധ്യമല്ല അതു  
കൊണ്ടു് ശ്രീ പി. കെ. ഗോപാലകൃഷ്ണൻ അവതരിപ്പിച്ചിട്ടുള്ള ഭേദഗതിയെ ഞാൻ  
വിനോദിക്കുന്നു.

“ ഇന്നു് ഭൂമിക്ക് വിലകൂടിക്കൊണ്ടിരിക്കുകയാണെന്നാണു് ബഹുമാനപ്പെട്ട മന്ത്രി പറ  
യുന്നതു്. അതു ശരിയല്ല. വില ദിനംപ്രതി ഇടിഞ്ഞുവരുന്നതായിട്ടാണു് അഭിപ്രായം.  
പണ്ടത്തെ നിലയിലെത്തിച്ചേർന്നാൽ ഇനി അധികം വൈകേണ്ടതില്ല എന്നാണു് ഇപ്പോ  
ഴത്തെ പോക്കുകൊണ്ടു് മനസ്സിലാക്കുന്നതു്. അതുകൊണ്ടു് ഭൂമിക്ക് വില കൂടിയിട്ടുണ്ടു്  
എന്ന അഭിപ്രായം തെറ്റാണു്. ഈ രണ്ടു പ്രധാനകാരണങ്ങളാലാണു്  
30 ഇരട്ടിയെന്നുവരുന്നതു് അട്ടമമാണെന്നു് ഞാൻ പറയുന്നതു്. ഇതിൽനിന്നു വരു  
മാനമുണ്ടാക്കണമെന്നുള്ള ഉദ്ദേശം ഉപേക്ഷിക്കണമെന്നു് ഞാൻ വീണ്ടും അഭ്യർത്ഥിക്കുന്നു. ”

SRI S. S. KOLKEBAIL :—“ Mr. Speaker, I support the amendment moved by hon. Member Sri Panchaksharam Chettiar to the effect that the market value of the land may be reduced to 15 times the assessment on land. As pointed out by my hon. Friend, Sri Rangasamy Reddiar, there was a lot of bargaining in the Select Committee and finally the Hon. the Leader of the House accepted ‘thirty times the assessment on land’. I think the Hon. Leader of the House will remember his standing promise to the House that he would always reserve something for the House. I hope he will stand by that promise and will agree in this House to reducing it to ‘twenty times’ at least, as a compromise. Sir, it was stated that we were not here to subsidise quarrels. But, I may tell that we are also not here to subsidise justice. The point is that we must see that as far as possible, poor litigants are not made to suffer. One of the arguments put forward by the Hon. Minister for Finance was that in 1870 it was



[Sri S. S. Kolkebail]

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only 'five' times. Sir, I may tell him that we are not in 1870 when we were slaves under the British. We are now in 1955 as a free nation. The British introduced court-fees, lawyers' fee and all that. All these have been steadily increasing. Prior to that, people never went to courts. In old days, justice was not centralized at all. Every matter was settled at the village level. Having centralized these things the Court Fees Act and other Acts had to be introduced for meeting the expenses connected therewith. Now, persons filing even small suits have to pay a huge amount as lawyer's fee and also court-fee. In view of the several arguments put forward by the hon. Members from this side as well as the other side of the House, it is necessary that 'twenty times the assessment on land' has to be accepted as a compromise."

\* SRI Y. MANJAYA SHETTY :—" Mr. Speaker, in support of the amendment that I have moved I wish to say a few words. Sub-clause (2) of clause 7 determines the value of the land for purposes of valuation of court-fees. In the case of lands other than house-sites, it is proposed to compute the value at thirty times the assessment. With regard to house-sites alone it is proposed to compute at the sale value in the market. My submission is that if the value of the house-site is to be computed at the sales value in the market, the litigants may have to pay a large sum as court-fees. Especially, in villages the house-sites will not be small in size as it is in the towns. In villages house-sites will be extensive and will not be less than 50 cents in extent. According to the provision as it stands at present, great hardship will be caused to the poor litigants. That is why I have suggested in my amendment the substitution of the words 'thirty times the survey assessment on the land and the market value of the building thereon' for the words 'its market value' occurring in sub-clause (2), item (g). I hope the Government will accept my amendment which is very reasonable."

11-40 a.m. SRI S. RAMALINGAM :—" கனம் சபாநாயகர் அவர்களே, இங்கே ஒரு மந்திரியையும் காணோமே."

MR. SPEAKER :—" மந்திரி இங்குதான் இருப்பார். எங்கும் பறந்து போய்விட மாட்டார்."

"I agree with the hon. Member. When the discussion is going on, at least one of the Ministers must be in the House."

AN HON. MEMBER :—" Can an ex-Minister take his place, Sir."

MR. SPEAKER :—" The Hon. Minister has come."

SRI S. RAMALINGAM :—" கனம் சபாநாயகர் அவர்களே, கனம் நிதி மந்திரி அவர்கள் பொது விவாதத்திற்குப் பதில் அளிக்கும் போது சர்க்கார் செய்திருக்கக்கூடிய நல்ல காரியங்கள் எதையுமே எதிர்க்கட்சியில் இருக்கக்கூடியவர்கள் பாராட்ட மறுக்கிறார்கள் என்று சொன்னார்."



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**THE HON. SRI C. SUBRAMANIAM** :—“எல்லாரும் இல்லை. வக்கீல்கள்.

“No, no. I was speaking about lawyers generally.”

**SRI S. RAMALINGAM** :—“அதுவும் குறிப்பாக ஸ்ரீ கிருஷ்ணைய்யர் அவர்கள் பாராட்டவில்லையென்று குறிப்பிட்டார்கள்.

“குறிப்பாக கோர்ட்டுக்குச் சேரவேண்டிய தொகையை 11½ சத விசதத் விருந்து 7½ சத விசதம் ஆகக் குறைத்திருக்கிறோம், அதையும் பாராட்ட மறுக்கிறார்களே என்று குறிப்பிட்டார். உண்மையிலேயே இது ஒரு பசவாக இருந்தால் அதைப் பாராட்டியிருப்போம். ஆனால் புலித் தோலைப் போர்த்திக்கொண்டிருக்கிற பசவாக இது இருக்கின்ற காரணத்தினால் இதை எப்படி ஸ்ரீ கிருஷ்ணைய்யர் அவர்கள் பாராட்டுவார்கள் என்று கேட்க விரும்புகிறேன்.

“ஏற்கெனவே சாதாரணமாக மூன்று ஏக்கரா நிலம் வைத்துள்ளவன் கேஸ் போட வேண்டுமானால் கிட்டத்தட்ட ரூபாய் 41-2-0 கோர்ட்டு-100 கட்ட வேண்டும். ஆனால் இந்த மசோதாவின் பிரகாரம் அவன் 67½ ரூபாய் கட்ட வேண்டி வரும். முன்பு கோர்ட்டுக்குச் சேரவேண்டிய தொகை 11½ சத விசதமாக இருந்ததை இப்பொழுது 7½ சத விசதமாக குறைத்திருக்கிறோம் என்று இவர்கள் சொல்லுகிறார்களே தவிர நிலத்தின் மதிப்பை அதிகப்படுத்தி இந்தத் தொகையை விதிப்பதால் முன்பு மூன்று ஏக்கரா நிலத் தரவாவது கோர்ட்டுக்குச் சேரவேண்டிய தொகையாக ரூ. 41-2-0 கட்டினால் இப்பொழுது 67½ ரூபாய் கட்ட வேண்டி வருகிறது. இப்படிப்பட்ட நிலைமை ஏற்படுமோது அதை எப்படி பாராட்ட முடியுமென்று சர்க்காரைக் கேட்க ஆசைப்படுகிறேன். முன்பு இருந்த மதிப்பை அதாவது 10 சத விசதமாக இருந்ததை 30 சத விசதமாக உயர்த்திவிட்டு அதன்பேரில் 7½ சத விசதம்தான் விதிக்கிறோம் என்று சொல்வது சரியல்ல.

“சென்ற ஆண்டில் பொது விவாதத்தின்போது கனம் நிதி மந்திரி அவர்கள் Court-fee-ஐ அதிகப்படுத்துவது எங்கள் நோக்கம் அல்ல, இதிலுள்ள இக்கட்டுகளை போக்க வேண்டுமென்பதே சர்க்காருடைய நோக்கம் என்று சொன்னார்கள்.”

**THE HON. SRI C. SUBRAMANIAM** :—“Let us go into the clause. There is no good going again into a general discussion of the Bill.”

**SRI S. RAMALINGAM** :—“ஆனால் இன்றைக்கு கண்டிப்பாக கோர்ட்டுக்குச் சேரவேண்டிய தொகையை அதிகப்படுத்தியே இருக்கிறார்கள். ஆகவே மார்க்கெட் மதிப்பீட்டை பத்து மடங்காகக் குறைத்துவிடவேண்டுமென்பதாகக் கொடுத்திருக்கும் திருத்தத்தைச் சர்க்கார் ஏற்றுக்கொள்ள வேண்டுமென்று கேட்டுக் கொள்ளுகிறேன்.

“இந்த மார்க்கெட் மதிப்பீட்டை நிர்ணயிக்கும்போது நகர்ப்புறங்கள், கிராமப்புறங்கள் ஆகியவற்றிலுள்ள வீடுகளின் மதிப்பு இப்பொழுது என்னவாக இருக்கிறதோ அதையே அதன் மதிப்பாக எடுத்துக்கொள்ளப் படுகிறது. இந்த மதிப்பீட்டின் பிரகாரம் அவர்கள் Court-fee கொடுக்க வேண்டிய நிலைமை ஏற்படுவதும். இந்த மதிப்பை நிர்ணயிப்பதில் மிக அதிகமாகக் காலதாமதம் ஆகும். அது மட்டுமல்ல. வீட்டின் மதிப்பை நிர்ணயிப்பதற்கு கமிஷன் போடவும், விசாரணை செய்யவும் அவசியம் ஏற்பட்டு விடும்.

“சரியானபடி கோர்ட்டுக்குச் சேரவேண்டிய தொகையைக் கட்டுவதற்கும், எதிர்க்கட்சிக்காரர்களுக்குச் சந்தர்ப்பம் கொடுக்கப்படுகிறது. இதை வைத்துக்கொண்டு அவர்கள் கட்டத்தின் விலை அதிகம் என்று சொல்லலாம். அந்த தாவாவுக்காகக் கோர்ட்டுக்குச் சென்றார்களோ அந்த தாவா முடிவதற்குள் சொத்தின் மதிப்பை நிர்ணயிப்பதிலும், Court-fee சரியாக



[Sri S. Ramalingam]

[29th March 1955]

இருக்கிறதா என்பதிலும் பல தாவாக்கள் ஏற்பட்டுவிடலாம். இதைப்பற்றி விசாரித்து ஒரு முடிவு சொல்வதற்குள்ளேயே பிரதான தாவா முடிவடைவதற்கு நிச்சயமாக வெகு காலதாமதம் ஆகிவிடும். அதை நீடித்துக் கொண்டேயும் போகலாம்.

“நிலத்திற்கு மட்டும் நாம் கிஸ்தியில் பத்து மடங்கு என்று வைத்துக் கொண்டிருப்பதை 15 மடங்கு என்று உயர்த்துவதற்கு சர்க்கார் ஒப்புக் கொள்வார்களோ என்னமோ தெரியவில்லை. முப்பது மடங்கு என்று உயர்த்திவிடக்கூடாது. அதைப் போலவே நகர்புறங்களிலுள்ள வீடுகள், பஞ்சாயத்து போர்டுகள் முதலிய இடங்களிலுள்ள வீடுகள் ஆகியவற்றிற்கு அவர்கள் என்ன வரி கொடுத்துக் கொண்டிருக்கிறார்களோ அவற்றைப் போல பத்து மடங்கு என்று Court-fee யை நிர்ணயிப்பது சரியானது என்பது என்னுடைய அபிப்பிராயம். அதனால் மார்க்கெட் மதிப்பீட்டை நிர்ணயிப்பதில் ஏற்படும் காலதாமதங்கள், தகராறுகள் ஆகியவற்றை எல்லாம் நீக்கிவிட முடியும் என்று சொல்ல ஆசைப்படுகிறேன். ஆகவே அந்த ஷரத்திற்குக் கொடுக்கப்பட்டிருக்கும் திருத்தங்களை எல்லாம் சர்க்கார் கவனிக்க வேண்டும்.

“அடுத்தபடியாக கோர்ட்டுக்குச் செல்வோரின் செலவும் உயருகிறது. கோர்ட்டு விசாரணை ஆன் பிறகு தீர்ப்பு அளிக்கும்போது இவ்வளவு தொகை வக்கீலுக்கும் கொடுக்க வேண்டுமென்று தீர்ப்பு அளிக்கப்படுகிறது. மார்க்கெட் மதிப்பீட்டை அதிகப்படுத்துவதன்மூலமாக வக்கீல்களின் செலவும் அதிகப்படும். இதனால் கட்சிக்காரர்களின் செலவுதான் அதிகப்படுகிறது என்பதை சர்க்கார் கவனிக்க வேண்டும். வக்கீல்களுக்கு என்ன தொகை நிர்ணயிக்கப்பட்டிருக்கிறதோ அதற்குமேல் வக்கீல்கள் பணம் வாங்கிக் கொண்டிருக்கலாம். ஆனால் கோர்ட்டே அதிகத் தொகையை நிர்ணயிக்கும் படி விடக் கூடாது. இன்றைக்கு மார்க்கெட் மதிப்பீட்டை அதிகப்படுவதன் மூலமாக வக்கீல்களின் செலவு கட்சிக்காரர்களுக்கு அதிகப்படுகிறது. ஏற்கனவே கோர்ட்டுக்குச் சேரவேண்டிய தொகையும் முன்பு இருந்ததை விட இன்னும் அதிகப்பட்டிருக்கிறது என்றும் சொன்னேன். இதனால் கட்சிக்காரர்கள் பெரிதும் பாதிக்கப்படுகிறார்கள். அதிகப்படியான வருமானம் வக்கீல்களுக்குத் தேடித் தரவேண்டுமென்ற நோக்கம் சர்க்காருக்கு இருந்தாலும், இல்லாவிட்டாலும் கட்சிக்காரர்கள் பெரிதும் பாதிக்கப்படாமலிருக்கும்படியாக கவனம் செலுத்துவது ரொம்பவும் முக்கியமாகும். ஆகவே ஏற்கெனவே இருந்தது போலவே நிலவரியின்மீது 10 சத விதிகம் என்றும், வீடுகள் போன்றவற்றின்மீது அவர்கள் கட்டுகின்ற வரியினைப் போல பத்து மடங்கு என்றும் கோர்ட்டுக்குச் சேரவேண்டிய தொகையை நிர்ணயிக்க வேண்டுமென்று கேட்டுக்கொண்டு, அதற்காகவே கொடுக்கப்பட்டிருக்கும் திருத்தங்களை சர்க்கார் ஏற்றுக்கொள்ளவேண்டுமென்று கேட்டு கொள்ளுகிறேன்.”

11-47  
a.m.

\* SRI N. MOUNAGURUSWAMI NAIDU :— ‘ Mr. Speaker,

Sir, my submission is that 30 times the assessment is a little too much. We have been paying so far only on ten times the assessment. The increase that has now been proposed is therefore too much. Further, Sir, it is a matter which affects the jurisdiction of courts also. Many suits now filed before Munsif's Courts will have to be filed in sub-courts according to the revised valuation of suits. For example we can now file a suit in respect of land paying a cost of Rs. 300 in a District Munsif's Court. The same suit, if valued under the provisions of the Bill under discussion, will have to be filed in a Sub-Court. This would result in greater congestion of work in Sub-Courts. The Munsif Courts will be deprived of a greater portion of their work, and there will not be much work for



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them. Therefore I would submit to the Hon. Minister that he should also consider this aspect of the matter, and try to reduce the amount as much as possible."

\* SRI E. T. KUNHAN :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, ബഹുമാനപ്പെട്ട മന്ത്രി 11-49 a.m.  
പറയുകയുണ്ടായി ഭൂമിക്ക് വില വർദ്ധിച്ചിട്ടുണ്ട്, അതുകൊണ്ട് കോട്ടുമിസ്റ്റ് വർദ്ധിപ്പിച്ചാൽ ഭോക്താവില്ല എന്ന്. പക്ഷെ ഭൂമിക്ക് വില വർദ്ധിച്ചിട്ടില്ല എന്നുമാണ് വാസ്തവം. മലബാറിനെ സംബന്ധിച്ചിടത്തോളം എനിക്ക് നേരിട്ടറിയാം. ഭൂമിയിൽ നിന്ന് എത്രത്തോളം കിട്ടുമെന്ന് നോക്കിയിട്ടാണ് ഭൂമിക്ക് വില നിശ്ചയിക്കുന്നത്. മലബാർ കടിയായ നിയന്ത്രിയുടെ പരിധിയിൽപ്പെട്ട ഭൂമിക്ക് പാട്ടം വളരെ കുറഞ്ഞിട്ടുണ്ട്. കാക്കിംഗോളങ്ങളുടെ വിലയും വളരെ കുറഞ്ഞിട്ടുണ്ട്. പാട്ടം കുറയ്ക്കുകയാൽ പറഞ്ഞാൽ ഉടമസ്ഥന് ഭരമസ്ഥൻ കറയ്ക്കുക എന്നത്മാണ്. പാട്ടം കുറഞ്ഞിട്ടുള്ളതുകൊണ്ട് ഭൂമിയുടെ വിലയും അതനുസരിച്ച് കുറഞ്ഞിട്ടുണ്ട്. അതുകൊണ്ട് ഭൂമിയുടെ വില വർദ്ധിച്ചിട്ടുണ്ടെന്നുവരാം സാധിക്കുകയാണ് നിവൃത്തിയില്ല. പത്തു ഇരട്ടിയെന്നു വെച്ചിട്ടുള്ളതു 30 ഇരട്ടിയാക്കുന്നതിന് യാതൊരു ന്യായവുമില്ല. അത് കേസ്സിനു പോകുന്ന ആളുകളെ ബുദ്ധിമുട്ടിക്കുമുള്ള ഒരേപ്രകാരം. ജന്മിയാണ് കേസ്സിനുപോകുന്നതെന്തിനെന്നാലും ജന്മിക്ക് അനുകൂലമായും കടിയൻ പ്രതികൂലമായുമാണ് വിധിയുണ്ടാകുന്നതെങ്കിൽ കോടതിയെപ്പറ്റിയൊക്കെയും ഭാരം കടിയന്റെ തലയ്ക്കുതന്നെയാണ് വരുന്നത്. മുപ്പതു ഇരട്ടിയാക്കുന്നതിനെ ഒരു തരത്തിലും അനുകൂലിക്കാൻ നിവൃത്തിയില്ല. സമാധ്യം ഗോപാലകൃഷ്ണന്റെ ഭേദഗതി ന്യായമായിട്ടുമാണ്. ഞാൻ അതിനെ പിന്താങ്ങുന്നു. അത് സ്വീകരിക്കണമെന്നു അപേക്ഷിക്കുന്നു. ”

\* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Mr. 11-50 a.m.  
Speaker, Sir, I am suggesting an amendment to sub-clause (g). This sub-clause (g) refers to a particular class of lands not covered by the foregoing sub-clauses of the same clause.

“ Sir, it says—

‘Where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description . . .’

The ‘land not falling within the foregoing description’ may include buildings also. Once a doubt arose, whether the ‘land’ would include buildings also. Once a question arose and it was contended that the particular provision of the Limitation Act with reference to land would not apply to ‘house’. Here too the same lacuna continues. As it is, ‘building’ will be property not covered by the foregoing clauses of this Bill and will be property not coming under the category of ‘land’ mentioned in this very clause. Therefore, to make the position clear I have proposed in my amendment that buildings also would be included in the category of ‘land’ dealt with in sub-clause (g) of this clause. Sub-clause (g), after incorporating the amendment moved by me, would read as follows :—

‘(g) Where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description including buildings—its market value.’

It is necessary that my amendment should be accepted.”

SRI P. K. GOPALAKRISHNAN :—“ Sir, whenever the Government bring any taxation measure, they usually say that the revenue to be derived from it is very low. When the Betterment Levy Bill was brought before this House, the Government also



[Sri P. K. Gopalakrishnan] [29th March 1955]

said that the revenue from it would be very low. Now also they say that the revenue expected from this Bill will be only Rs. 7 lakhs. This is a very under-estimation of facts. Actually the revenue that the Government are going to get from it will be double the revenue that they are already getting. The Hon. Minister for Finance has asked, when market value is taken into consideration with regard to other items, why not the same market value be taken into consideration with regard to lands also and why exemption should be given to it alone. In that connection, he has also stated that the market value has enhanced much. Sir, our country is an agricultural country and land is the most important item about which disputes always arise. We are all aware that in the mufassal courts, 90 per cent of the cases concern land disputes. So, this measure is going to fetch more than double the revenue that the Government are already getting now. The argument of the Government that this Bill is not at all intended to raise the revenue of the Government and it is only to remove certain anomalies, falls flat when they are going to raise the assessment basis from ten times to thirty times. In that connection, the Government have also stated that the lower income groups are going to be benefited under this Bill and a very large number of people are going to be benefited, and a very small number of people would be affected. This argument does not stand to reason and it has been countered by the hon. Member. Sri Rangaswami Reddiar. His argument was that formerly the rate was Rs. 11-4-0 for Rs. 100 and now for the same Rs. 100 increased to Rs. 300 the rate of court-fee would be Rs. 22-8-0 and there is more than 100 per cent rise in the court-fee. So, the lower income groups are not definitely going to be benefited by this Bill and let them not say that it is going to benefit them. There is a saying in Malayalam : “അരിയും തിന്ന അരിയിലെയും കടിച്ച എ. റിട്ടും നായക്കും മൊറ്റമുണ്ട്.” That is, the Government are not only doing harm to the people but are also at the same time saying that lower income groups would be benefited.

“Then I come to my another amendment with regard to the exchange of properties. When market value is taken into consideration with regard to landed properties, why not the same principle be extended to cases involving exchange of properties? I hope the Government will consider these two points mentioned in my amendment.”

\* SRI V. R. KRISHNA AYYAR :—“Mr. Speaker, Sir, certain facts, which are quite clear, clearly make out a strong case for the acceptance of the amendment by the Hon. the Minister for Finance. It has now transpired that all sections of the House—whether it be Opposition Members or Members belonging to Treasury Benches—are unanimous in respect of this matter . . . .”

THE HON. SRI C. SUBRAMANIAM :—“The Members from this side of the House have not heard my reply.”



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\* SRI V. R. KRISHNA AYYAR :—“ I am only summing up the present position and the Hon. Minister for Finance may throw further light in his reply. As it is, the House is unanimously of the opinion that the increase from ten times to thirty times is something rather harsh and may be unjust to the ordinary litigant public. In the Central Act it is five times, then it was raised by the Madras Government to ten times and now it is a leap-forward to thirty times and this looks rather frightful and ill-accords with the plea of the Government that this Bill is in favour of the poor. So, I submit that out of respect to the unanimous wish of the House, the Hon. Minister for Finance would persuade himself to accept the amendment.

“ Then I wish to refer to another point. This country is primarily an agricultural country and litigation is largely in respect of agricultural land. This particular clause is concerned with land disputes. Since most of our suits are connected with lands, this clause will affect a large class of litigants in the country. If all of us are agreed that the agricultural population require kinder treatment from the Legislature, then the Court-fee should not be increased by three times and it would be unjust thing to do. Even about the existing rates of court-fees, High Court Judges and other judges have openly declared that they are at the highest level. So people have been looking forward to a reduction. Even the predecessor of the Hon. the Finance Minister announced that there would be a complete overhaul of the law of court-fees and there would be a substantial reduction. At any rate, in a matter like this, where a large class of litigants would be affected by the proposed section, we should exhibit a kind of compromising attitude. I would therefore request the Hon. Finance Minister to come to a compromise, though he may not be happy over it, because settlement with Members on this side as well as Members on his side will easily be the best solution and all of us will have a happy consummation if the Hon. the Finance Minister agrees to a reduction at least to 20 times if not to 10 times as one hon. Member has suggested or to 15 times as some of his own party men have suggested. It should be reduced to at least 20 times as my hon. Friend Sri M. Narayana Kurup has suggested. The major litigation in our country is land litigation and the agrarian population is the vital population in this country. They are poor and they cannot afford to pay a high rate of court-fees. Suppose I am a poor man and a wealthy neighbour wants to trespass upon my land. If I want to restrain him by way of an injunction or if I want to eject the trespasser, this section will operate against me. If I want to take the matter to the Court, I will have to pay a heavy court-fee. Therefore, in the name of the agrarian population, in the name of all sections of the House and in the name of Avadi, I request the Hon. the Finance Minister to have it reduced to twenty times.”

\* SRI K. PARTHASARATHY :—“ Sir, at the outset, I wish to state that I oppose the amendment proposed by Sri P. K. Gopalakrishnan to extend the principle of notional valuation relating to



[Sri K. Parthasarathy] [29th March 1955]

immovable property to cases falling under clause 42 (d) and (e). If such a course were to be adopted, it will result in an anomaly. Section 42 (a) refers to a suit for specific performance of a contract of sale and in such a case, court-fee has to be computed on the amount of the consideration. A contract of exchange is no less than a sale where there are two sales. The consideration for the contract is the value of the property that is given in exchange. So, when we file a suit for specific performance of a contract of exchange, then the correct basis for computing court-fees should be the market value of the property. If a notional value is adopted, it will result in an anomaly in that in the case of specific performance of a contract of a sale we assess on the basis of consideration and in the case of a contract of exchange we assess on the basis of notional value. In order to avoid that anomaly, I submit that the amendment should not be accepted.

“As regards multiplying the assessment by the number of times is concerned, I wish to submit that the adoption of notional valuation itself is a concession to the agriculturists. No doubt, litigation in the mufassal mainly relates to agricultural property and the lands are mostly assessed to land revenue. The submissions made here on the floor of this House and the representations made outside the House go to show that if the market value is adopted, it will inflict hardship on the litigants. Now, the point for consideration is what is the exact multiple of the revenue assessment that has to be adopted. This point was gone into fully by the Select Committee and no doubt the Hon. the Finance Minister came down very reluctantly and arrived at this figure of thirty times. It is for the House to decide how many times the land revenue should be the notional value and I wish only to point out that by adopting the figure of 30 times we are not increasing the liability of the litigant to pay Court-fees in the case of litigations up to the value of Rs. 1,000 by three times. We have not increased the liability by three times, because in suits up to the value of Rs. 1,000, the liability is increased only twice. The litigant has to pay only  $22\frac{1}{2}$  per cent because the present *ad valorem* fees is  $7\frac{1}{2}$  per cent instead of  $11\frac{1}{2}$  per cent that is prevailing. Hon. Members should not be under the impression that we have increased the liability by three times, but the increase works out only to two times. In adopting the principle of notional valuation to cases coming under clause (g), it is now proposed that where the land is a house-site whether assessed to full revenue or not, then court-fees should be computed on its market value and not notional value. I think this provision as it is, is bound to give rise to much confusion. In order to avoid the difficulty, the amendment proposed by Sri Manjaya Shetty may be accepted and if it is accepted, it will avoid a lot of wasteful litigation because the other party may contend that a particular plot is a house-site and therefore court-fees should be computed on its market value.”

12-05 SRI M. KALYANASUNDARAM :—“கனம் சபாநாயகர்  
p.m. அவர்களே, இந்தப் பிரிவில் நிலத்தினுடைய மதிப்பை எப்படி மதிப்  
பிடுவது என்பதை வரையறுத்திருப்பது வரவேற்கத்தக்கதுதான். மதிப்பீடு



29th March 1955] [Sri M. Kalyanasundaram]

தகராறுக்குரிய விஷயமாக இருந்து விவகாரங்கள் வளர்ந்து தீர்ப்புப் பெறுவதில் காலதாமதம் ஏற்படுவதற்கு சந்தர்ப்பம் இல்லாமல் இருக்க வேண்டுமானால் இந்த ஒரு விஷயத்திலாவது சர்க்கார் எங்களுடைய திருத்தங்களை ஒத்துக்கொள்ள வேண்டும். 'மார்க்கெட் மதிப்பு' என்று சொன்னால் அதை எப்படி மதிப்பிடுவது? மார்க்கெட் மதிப்பு என்று கொடுக்கவேண்டிய அவசியம் இல்லை என்று கருதுகிறேன். நிலத்தை எப்படி மதிப்பிடுவது என்று வரையறுத்திருக்கிறார்கள். ஆனால், நிலவரியின்மேல் முப்பது மடங்கு மார்க்கெட் மதிப்பு இருக்கவேண்டும் என்பது மிக அதிகம் என்பது என்னுடைய கருத்து. சாதாரண விவசாயிகளுடைய நிலைமையைக் கணக்கில் எடுத்துக்கொண்டால் இது மிகவும் அதிகமென்பதை நாம் ஒப்புக்கொள்ளலாம். இந்தப் பிரிவின்மேல் பேசியவர்கள் பெரும்பாலும் வக்கீல் அங்கத்தினர்களாக இருந்தார்கள், அவர்களுக்குப் பாதகம் ஏற்படும் என்று அஞ்சுகிறார்கள் என்ற எண்ணம் மந்திரியவர்களுக்கு ஏற்படக்கூடாது. வக்கீல்களுக்கு லாபமோ நஷ்டமோ இருக்காது என்பது தெரியும். எனக்கு முன்னால் பேசிய கனம் அங்கத்தினர் ஸ்ரீ ரங்கசாமி ரெட்டியார் 'எங்களுக்கு இதைப்பற்றி கவலையில்லை; கோர்ட்டு கட்டணத்தைக் கொடுக்கப் போகிறவர்கள் கட்சிக்காரர்கள்; எங்கள் பிழைப்பு கெட்டுவிடாது' என்று சொல்லிவிட்டார்கள். ஆகையால், வக்கீல்களுக்கு சொந்த அக்கறை இல்லை என்பது தெளிவு. விவசாயிகளுக்கு இதனால் என்ன பாதகம் ஏற்படுமென்று பார்க்கவேண்டும். பெரும்பாலும் ஒரு ஏக்கர் இரண்டு ஏக்கர் வைத்திருக்கும் விவசாயிகள் கோர்ட்டுக்குப் போவார்களானால், விவகாரம் முடிந்து திரும்பக் கணக்குப் பார்க்கும் போது கேசில் ஜெயித்தாலுங்கூட பிறகு அதனால் பலன் இருக்காது, நிலத்தின் மதிப்புக்குமேல் கடன் ஏற்பட்டிருக்கும். அந்த நிலையில் கிராமத்தில் இருக்கக்கூடிய விவசாயிகளின் நிலைமை இருக்கிறதென்பதை மந்திரி அவர்கள் உணரவேண்டும். மலையாளத்தில் ஒரு பழமொழி உண்டு. அதற்குப் பொறுத்தமான தமிழ்ப் பழமொழி இல்லை. மலையாளத்தில் உள்ள பழமொழியாவது :

‘கேஸென்னை மெளலியாயி

காஸென்னை பேயாயி’

கேசு முடிந்து திரும்பும்போது கையிலிருந்த காசெல்லாம் போய்விட்டது என்பது அந்தப் பழமொழியின் கருத்து. ஏழை விவசாயிகள் கோர்ட்டுக்கு போய் ஒரு ஏக்கர் இரண்டு ஏக்கர் நிலத்தை மீட்டுக்கொண்டு வருவதற்குள் அதற்காகச் செலவிடுவதானது நிலத்தின் கிரயத்தைவிட அதிகமாகிவிடுகிறது. அதற்கு ஒரு பரிகாரம் வேண்டுமென்பதைத்தான் இதில் முக்கியமாக கவனிக்க வேண்டும். ஏராளமாக சொத்து உடையவர்களுக்கு முப்பது மடங்கு என்று கணக்கிடுவார்களானால் அதை நான் ஆட்சேபிக்கமாட்டேன். நிலப் பிரபுக்கள், ஜமீந்தார்கள் ஆகியவர்களுக்கு கோர்ட்டு விவகாரம் ஏற்பட்டு அவர்களுடைய சொத்திலே ஒரு பாகம் சர்க்காருக்கோ வக்கீலுக்கோ போவதைப்பற்றி அவ்வளவு கவலைப்பட வேண்டியதில்லை. இந்த முறையிலாவது நிலப்பிரபுக்களிடமுள்ள சொத்து மற்றவர்களுக்கு விறியோகம் ஆகட்டும். அதைப்பற்றி கவலையில்லை. ஆனால், ஏழை விவசாயிகள் பணக்காரர்களுடைய அக்கிரமமான வழக்குகளிலிருந்து எப்படி தங்களைக் காப்பாற்றிக்கொள்ள முடியும் என்ற ஒரே கவலைதான். ஆகையால் தான் மந்திரி அவர்கள் கவனிக்கவேண்டுமென்று கேட்டுக்கொள்ளுகின்றேன்.

“முப்பது மடங்கு என்று போடுவது மிகத் தவறு. பல அங்கத்தினர்கள் பத்து மடங்கு என்றும், இன்னும் சிலர் 15 மடங்கு என்றும், மற்றும் சிலர் 20 மடங்கு என்றும் மாற்ற வேண்டுமென்று திருத்தங்கள் கொடுத்திருக்கிறார்கள். Compromise ஆக 20 மடங்கு என்பதையாவது மந்திரி அவர்கள் ஒத்துக்கொள்ளவேண்டுமென்று நான் கேட்டுக்கொள்ளுகின்றேன்.

“கட்சிக் கட்டுப்பாடு இல்லாமல் வோட்டு எடுத்துப் பார்க்கட்டும். கட்சி கௌரவம் என்பதைப் பாராட்டாமல் கட்சிக் கட்டுபாடில்லாமல் வோட்



[Sri M. Kalyanasundaram] [29th March 1955]

டெடுத்துப் பார்த்தால் 20 மடங்கு என்பதற்கு எல்லா அங்கத்தினர்களும்—சர்க்கார்தரப்பு அங்கத்தினர்களும் கூட—வோட்டு செய்யக்கூடிய நிலைமை ஏற்படும் என்பது என்னுடைய அபிப்பிராயம். இரண்டு பக்கத்திலுள்ளவர்களுடைய அபிப்பிராயத்தையும் மந்திரி அவர்கள் இதுவரையில் தெரிந்துகொண்டார்கள். ஏழை விவசாய மக்களுக்கு வசதி கொடுக்க '20 மடங்கு' என்பதை மந்திரி அவர்கள் ஒப்புக்கொள்ளவேண்டுமென்பது என்னுடைய அபிப்பிராயம்.

“நாங்கள் கொடுத்திருக்கும் இன்னொரு திருத்தத்தின் நோக்கம் என்னவென்றால், ‘பஞ்சாயத்து, முனிசிபாலிட்டியிலுள்ள வீடுகளின் மதிப்பீட்டை நிர்ணயிக்கும்போது வீட்டு வரியைவிட பத்து மடங்கு’ என்று நிர்ணயிக்க வேண்டும். நிலமாக இருந்தால் நிலவரி அடிப்படையில் மதிப்பிடலாம். சொத்து வீடாக இருந்தாலும் அதை திட்டவாட்டமாக வரையறுத்துவிட வேண்டும். பஞ்சாயத்து போர்டு, முனிசிபாலிட்டிகளில் இருக்கக்கூடிய வீடுகளுக்காவது அந்தப்பாதுகாப்பு இருக்கவேண்டும். கிராமங்களிலுள்ள வீடுகளை மதிப்பிடும்போது மார்க்கெட் மதிப்பீடு என்று இருக்கட்டும். குறிப்பாக முனிசிபல், பஞ்சாயத்து பிரதேசத்தில் இருக்கக்கூடிய வீடுகளை எப்படி மதிப்பிட வேண்டும் என்பதற்கு அவர்கள் பஞ்சாயத்து போர்டு, முனிசிபாலிட்டிகளுக்கு செலுத்தும் வரியின் அடிப்படையில் வரியை விட பத்து மடங்கு என்று கணக்கிட்டால் நியாயமாக இருக்கும். கோர்ட்டு விவகாரங்களை நியாயமான அடிப்படையில் தீர்த்துக்கொள்ள வசதியாக இருக்கும். ஆகவே, இந்த இரண்டு திருத்தங்களையும் மந்திரி அவர்கள் ஏற்றுக்கொள்ள வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.”

12-10  
p.m.

\* SRI V. R. KRISHNA AYYAR :—“Sir, I do not wish to make any speech. Before the Hon. Minister begins to reply to the debate on this clause, I only wish to make an appeal to him. The Bill was originally drafted on the basis that agricultural prices and land prices were very high. But the situation has now changed. The Hon. the Minister in charge of Finance himself is very much worried about the falling agricultural prices and also land prices. This same view has been given expression to by the various sections of the House. I request him to fix the market value of the land as 20 times the assessment on the land.”

\* THE HON. SRI C. SUBRAMANIAM :—“Mr. Speaker, Sir, this clause 7 contains two sub-clauses. Sub-clause (1) reads—

‘Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint.’

Sub-clause (2) reads—

‘The market value of land in suits falling under section . . .’

The amendment of Mr. Krishnaswamy Ayyangar seeks to insert the words ‘including buildings’. This is not necessary because building is not land and it is not included in sub-clause (2). Therefore, his amendment to insert the words ‘including buildings’ is not necessary.

“The entire fight (interruption . . .)—I should say it is a fight—has been put up and it has been made to look that the Government want to tax the poor people through this Bill. It is not so. We are not making any money out of it. It should be looked at from another point of view which I explained even during



29th March 1955] [Sri C. Subramaniam]

the Budget Debate. A person goes to a court of law because he has got a real grievance against another person. When a person goes to a court and when he pays the court-fee, ultimately, he gets all the costs including the court-fees he has paid from the person who has injured him. Therefore, ultimately the person who is made liable to pay the court-fee is the one who commits a wrong. If a person goes to Court on an imaginary grievance, certainly he should bear the expenditure, because he commits an injury to another person by dragging him to a court. Therefore, it is not as if we are taxing every person on the street. Civil litigation arises because a person commits a wrong to another person or a person goes to a court on an imaginary grievance against another person and this commits an injury to the latter. It is not as if, Sir, every person is bound to go to a Court of Law. In all cases where persons go to a Court of Law, aggrieved person get relief and persons who commit wrong are made to pay. If the arguments advanced by hon. Members are accepted, it would amount to showing concessions to persons who commit wrongs in society. A person who commits wrong has to pay and there should not be any plea that he should be helped and that he should not be made to pay a certain fee. It is only for the purpose of making these people who commit wrong to pay that we have all these paraphernalia of Civil Courts up to the High Court. It is only when persons unlawfully or unnecessarily exercise certain rights civil litigation arises. A person who commits a wrong will have to pay for it. Even though we are unable to make both the ends meet as far as the Department of the Administration of Justice is concerned, still a major portion of it should be met by these people. Suppose a person is very poor. There is provision in the Civil Procedure Code for the filing of pauper suits. It is not as if poor people are completely denied any relief at all. Of course, they will have to pay lawyer's fees; but they need not pay the court-fees in the first instance . . . ."

\* SRI V. R. KRISHNA AYYAR :—“ If a man has plot of land worth, say Rs. 250, he cannot be treated as a pauper. For purposes of filing a pauper suit, he must be an absolute pauper. Pauper relief is very inadequate.”

\* THE HON. SRI C. SUBRAMANIAM :—“ It depends upon the Court-fee payable. It is not a question of merely owning a certain piece of land or certain property. He should not be in a position to pay the court-fee as such. That is the criterion that should be taken into account. If he has got property worth the amount of court-fees that have to be paid, then it is a different matter. Absolutely poor people can file pauper suits in a Court of law. As a matter of fact that privilege is being misused and we all know that. Therefore, there is no question of inflicting any hardship on poor litigants. But I do agree that the huge fees paid to lawyers will have to be reduced. May be, the lawyers' profession should be nationalised and they should be asked to plead like Public Prosecutors. But this is not the occasion to plead



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for all that. This is a simple Bill intended to meet the expenditure which is involved in settling disputes as between private individuals. The only question is, even in respect of this expenditure, shall we have another surcharge on land revenue and meet this expenditure or shall we ask the litigants to meet this expenditure? Perhaps, by increasing the general sales tax by another quarter anna, the general community may be made to meet the cost of litigation launched for the establishment of the rights of private individuals or for setting right wrongs committed by private individuals. The Finance Minister will have to look at the question whether by decreasing the court-fee and thus increasing the deficit as far as the administration of the Department of Justice is concerned he will not be increasing the general tax payer's burden thereby and whether there is any justification for doing that. After all, Sir, if we have to carry on the administration of justice, all these costs will have to be met. If they are to be met, shall I meet them by general taxation of the community as a whole or shall I take a fair share from the litigants? If it is viewed from that, I have absolutely no doubt that every hon. Member will agree that this is merely a process by which private rights are established and that private wrongs are rectified and that private individuals should be made responsible to meet the entire costs. Even now, there is a huge deficit. That being so, I do not think there is any justification to say that the court-fees should be further reduced. That is why, the department, the various experts and the courts also have made a suggestion that even in respect of agricultural lands the market value should be adopted. But there are other considerations in fixing the market value. There might be delays. That is why I agreed to fixing 30 times the assessment on the land.

“ Another argument was advanced that lands values are falling. They are falling, according to hon. Member Sri M. Narayana Kurup, because of the impending legislation. My impression is that land legislation would increase the inherent value of the land. After all the value of the land should be judged from what it is able to produce. According to those who advocate land legislation or land reform, the productive capacity of the land can be increased by carrying out such reforms. Therefore, inherently the value of the land is bound to increase because of land legislations. Otherwise there is no justification for land reforms at all. Because of the land reforms, people will be able to produce more from the lands. Those who own the land and who till the land because of the land reforms will find it possible to raise more and more crops in their lands. The lands will be improved and this will result in increased production. There is therefore no question of the value of the land falling. That argument cannot be advanced from any point of view. There is absolutely no justification to reduce the figure further from ‘thirty’. As a matter of fact, as was pointed out by Sri Parthasarathi, ‘thirty times the assessment on the land’ that we have fixed in respect of the agriculturists’ land is itself a concession which has not been shown to any other kind of property. However, it is not only the agriculturists who are



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poor, but there are other poor people who go to courts, for the establishment of certain rights. As far as the other poor people are concerned, we are adopting only the market value. There are the poor labourers who might have lent a sum of Rs. 100 to others. If these persons go to a Court of Law for getting the money that they have lent, they have to pay court-fees on the value of the suit, viz., Rs. 100. Why should we make a distinction between one section of the poor people and another section? Be he a poor agriculturist or be he a poor labourer, why should there be any distinction? There has to be some distinction in view of the inherent difficulties involved in valuing the lands. The value of the land may vary from one region to another. There will be difference in the value of the lands. That is why we have adopted a different method of calculation. So, to quote 'Avadi' every time is nothing but mischievous. If somebody does not like Avadi and the decisions that have been taken there, well, he is free to have his own view. (Interruption . . . .) It may be that the decisions that have been taken there are inconvenient to some. It is not fair to say every time that because of Avadi resolution, I should do this or that. I can very well say that because of Avadi resolution, I must render justice to everybody. I cannot tax the poor tax-payer for the benefit of a few individuals. When compared with the total population, the number of those who go to courts is insignificantly small. For the purpose of helping these people, we cannot increase the tax on all people. I cannot certainly be a party to that and as a person responsible for the welfare of the general community and for seeing that the general community is not asked to pay more than what it is bound to pay, I am unable to accept the amendments. I cannot help the poor litigants at the cost of the poor people in the community as a whole. This is the only justification that I can give at the present moment for the Government's stand in regard to this matter."

\* SRI M. NARAYANA KURUP:—"Sir, the argument advanced by the Hon. the Minister for Finance seems to be ingenious, but not sound. It may carry conviction to a Legislature where there is a predominantly party Government, but not to Judges. He mentioned that it is the private individual who seeks justice in Courts of Law. May I know from him whether the expenditure under the head 'Judiciary' does not include expenditure incurred in connection with criminal cases as well? Can the Hon. Minister give us an estimate of the amount that is allocated for criminal cases and how much the litigants themselves are paying and all that? Is it the intention of the Government to mete out free justice in that respect? So, the Hon. Minister's statement in regard to this matter is only half-truth. Because, we find certain functions which the State is bound to do are also tacked on to this. If these two are differentiated, I am sure there will be a surplus. Therefore, this 'thirty times' is considered to be too much by almost all the Members belonging to every section of the House. Even at this late stage, I request the Hon. Minister to change his mind and accept the amendment suggested by us."



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\* SRI S. PANCHAKSHARAM :—“ Mr. Speaker, I just want to say something about a word used by the Hon. Finance Minister. I do not think that he used it deliberately. He said that we on our side had to fight over this clause. That is rather too much for us to understand. When we came forward with amendments to this clause, it is not at all with a view to criticising the Government or with a view to fighting the Finance Minister. We are also entitled to put forth our views and suggestions whenever we consider that a particular clause or particular provision called for some change. It is in that view only we have moved our amendments. I am really sorry that he should have used those words.”

\* THE HON. SRI C. SUBRAMANIAM :—“ Sir, I always welcome criticisms and suggestions. It is not as if I wish to shut out criticisms. Hon. Members not only from the opposite side but also from behind are free to offer criticisms and suggestions. I always welcome them. I should answer those criticisms. Those criticisms cannot be left unanswered. I should meet those criticisms.”

\* SRI S. PANCHAKSHARAM :—“ Sir, so far as I am concerned, I will stand by the party to which I have the honour to belong. If we move any amendments, it is not with a view to fight it out or any such thing, but with a view to make our humble suggestions on the subject which comes up for discussion before the House. This is what I wish to say by way of personal explanation.

“ We are guided by certain standards or certain principles. Why should it be ‘ thirty times? Unless it be arbitrary or unless something is working in the mind of somebody, I am unable to understand why it should be thirty times. What is the charm about it? We must have some data. In 1946, the very same Congress Government enhanced the value in respect of registration of partition deeds. Now, in 1955, when prices have gone down, I am unable to understand the rationale behind this ‘ thirty times’. I appeal to the Hon. the Finance Minister and say that there is no special charm in having it as thirty times. We can make it at least twenty-five times as in the case of Stamps Registration Act in respect of partition deeds. Let it be twenty or even twenty-five times by way of compromise. To have it as thirty times is not correct. Let us bring forward an amendment later on if necessary. That is the best way of dealing with the situation. Simply because the Hon. the Finance Minister has accepted thirty times in the Select Committee, we are not bound to accept it here. We are entitled to express our view in the matter. I once again request the Government and the Finance Minister to accept my amendment.”

\* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Mr. Speaker, the Hon. Minister said that lands will include buildings. These matters may go even before the High Court. So, it is



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better to make specific mention of 'buildings' even in the Act itself. Now, there is no specific provision made with reference to buildings. Unless lands are made to include 'buildings', there will be a lacuna and I think the Hon. Minister will find it possible to accept my amendment."

\* THE HON. SRI C. SUBRAMANIAM :—" Sir, whether we made it clear here itself or not, the present provisions are quite clear and they will adequately cover the point mentioned by the hon. Member. In either case, whether lands included buildings or not, the present provisions will cover them."

\* SRI M. KALYANASUNDARAM :—" கனம் சபாநாயகர் அவர்களே, 12-30 நில மதிப்பீட்டை நிர்ணயிக்க, நிலவரியில் 30 மடங்கு என்று கணக்கிடப்பட வேண்டும் என்று இந்த பிரிவை இருப்பதை ஆதரித்து கனம் மந்திரி அவர்கள் பேசியது எந்த விதத்திலும் திருப்தியளிக்க வில்லை. கோர்ட்டுச் செலவை முடிவில் யார் அக்கிரமமாக தாவா செய்திருக்கிறார்களோ, அவர்கள்தான் கொடுக்கப்போகிறார்கள் என்று அர்த்தப்படுமபடி அவர் சொன்னார். அக்கிரமமாக தாவா செய்யக்கூடியவர்கள், பக்கத்திலுள்ள ஏழை விவசாயிகளுக்கு இடையூறு செய்யக்கூடிய அக்கிரமத்தைச் செய்துவிட்டு, தப்பித்துக்கொள்ள சந்தர்ப்பம் இருக்கிறது. பாதிக்கப்பட்ட விவசாயி கோர்ட்டுக்கு போகவேண்டுமென்றால் ஆரம்பத்தில் அவன் தாவாவிடுவதாக செலவு செய்து பிறகுதான் செலவு தொகையை தாவா முடிந்தவுடன் பெறமுடிகிறது. தாவாவின் ஆரம்பச் செலவே அதிகமாயிருப்பதால், அவன் கோர்ட்டிற்கு போகவே பயப்பட வேண்டிய நிலையிடை இருக்கிறது. பாப்பர் (Pauper suit) குட்போட்டு, அவர்கள் பரிகாரம் தேடவேண்டுமென்றாலும், மேலே போட்டிருந்த சட்ட வேட்டி இவையெல்லாம் சேர்ந்து ரூ. 40-க்குள்ளாக இருந்தால்தான், தாவா போட முடியும்."

THE HON. SRI C. SUBRAMANIAM :—" Wearing apparel is not included."

SRI M. KALYANASUNDARAM :—" இந்த நிலையில் ஏழை விவசாயிகளில் பெரும்பாலானவர்கள் கோர்ட்டின் மூலம் பரிகாரம் தேட முடியாமல் இருக்கிறார்கள். கனம் நிதி மந்திரி அவர்கள் கோர்ட்டுச் செலவு அதிகமாக இருப்பதோடு மட்டுமில்லாமல், வக்கீல் செலவும் பெரும்பாலும் அதிகமாக இருக்கிறது என்றார்கள். வக்கீல்கள் பீஸ் அதிகம் கேட்கக்கூடாது என்று சொல்வது நியாயம்தான். ஆனால் கனம் மந்திரி அவர்கள் அந்த விஷயத்தை சொல்லிக் காட்டிய முறை எப்படியிருந்ததென்றால் 'நீங்கள் சர்க்காரிடம் Court-fees-ஐ குறைக்க வேண்டுமென்று சொல்கிறீர்கள். வக்கீல்கள் fees-ஐ குறைக்க வேண்டும் என்று ஏன் சொல்லவில்லை' என்று கேட்பது மாதிரி விஷமமாக இருந்தது. சாதாரணமாக, நல்ல எண்ணத்துடன் சொல்லியிருந்தால் பரவாயில்லை."

\* SRI S. PANCHAKSHARAM :—" Mr. Speaker, Sir, I would like to correct one wrong impression in the mind of the hon. Member, regarding expenses incurred by parties towards lawyers' fees. I submit, Sir, in the year 1931, the rules relating to lawyers' fees were amended. From that year onwards there has been no revision of these fees and lawyers did not agitate for the revision of the fees payable to them. The minimum fixed is Rs. 5 for ordinary money suits and for title suits it is Rs. 25. There has been no revision at all, increasing the fees payable to vakils."



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**SRI M. KALYANASUNDARAM:**—“ சர்க்கார் நிர்ணயித்துள்ள வக்கீல் fees-க்கும் நடைமுறையில் வக்கீல்கள் கட்சிக்காரர்ஸிடமிருந்து பெற்றுக்கொள்ளும் fees-க்கும் சம்பந்தமே கிடையாது. அது வேறு விஷயம். அதைப்பற்றி வேறு சந்தர்ப்பத்தில் பேசிக் கொள்ளுகிறேன். நாம், சர்க்கார் கோர்ட்டு fees-ஐ குறைக்க வேண்டுமென்று வாதாடும் சந்தர்ப்பத்தில், கனம் மந்திரி அவர்கள் வக்கீல் பிணைப்பற்றி தவறு தலாக, தப்பாக பேசி விட்டார்கள் என்பது என்னுடைய அபிப்பிராயம். மந்திரி அவர்கள் சொன்னது சரியில்லை.

“ அடுத்தபடியாக, வீடுகள் சம்பந்தப்பட்ட வரையிலும், மதிப்பீடுகளைப் பற்றி தகராறுகள் எழ இடமில்லாதபடி அவைகளும் இதே அடிப்படையில் மதிப்பிடப்படவேண்டும் என்பதுதான் சர்க்கார் நோக்கம் என்று மந்திரி அவர்கள் சொன்ன பதிலும் திருப்தியாக யில்லை. எனவே நான் கொண்டு வந்திருக்கும் திருத்தத்தை வற்புறுத்துவதுடன், மற்ற திருத்தங்களையும் ஆதரிக்கிறேன்.”

**SRI Y. MANJAYA SHETTY:**—“ Mr. Speaker, Sir, the Hon. Minister in his reply has not said anything about my amendment with regard to the valuation of house-sites. Does his silence mean he is accepting my amendment? ”

\* **THE HON. SRI C. SUBRAMANIAM:**—“ No, Sir, I have not accepted his amendment, because where the land is a house-site whether assessed to full revenue or not, then alone it comes into operation. When it is agricultural land coming under any of the categories mentioned in the clause then the statutory value comes into effect. There is no necessity for accepting the amendment. If we accept that amendment, in respect of house-site in Madras the party will be paying only 30 times the assessment, which will be a very insignificant amount compared to the value of the property. That is why I say, I am unable to accept that amendment of the hon. Member Manjaya Shetty.

“ Then, Sir, with regard to what was said by the hon. Member Sri Panchaksharam Chettiar, he asked: ‘ What was the charm about this 30 times the assessment ’. I would also like to ask: ‘ What is the special charm about his suggestion to alter it to 20 times or 25 times and so on ’. After all we have to fix a sum taking into consideration the prevailing circumstances. The Select Committee consisting of reasonable men considered this question thoroughly and suggested that 30 times the assessment would be reasonable. That has been accepted and incorporated in the Bill. There is no charm about anything. We should arrive at some figure. We cannot shift from one figure to another. Lawyers who are now so ably arguing for the reduction of the amount, were prepared to accept 50 times the assessment. But we were able to bring it down to 30 times and the Select Committee agreed to this. Therefore, Sir, I say there is no further case for reducing this.”

**MR. SPEAKER:**—“ I will now put the amendment to the vote of the House.”

The first amendment of Sri M. Narayana Kurup was by leave of the House withdrawn.



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MR. SPEAKER :—" Is the hon. Member Sri Narayana Kurup withdrawing his second amendment? "

SRI M. NARAYANA KURUP :—" No, Sir. I am not withdrawing."

MR. SPEAKER :—" The question is—

*' In sub-clause (2), item (a), for the word " thirty ", substitute the word " twenty ". ' "*

The motion was put and declared lost.

\* SRI M. KALYANASUNDARAM :—" On a point of order, Sir, மந்திரிகள் வரிசை பூராவும் காலியாக இருக்கிறது. நிதி மந்திரி ஒருவர் தான் இருக்கிறார். மற்ற மந்திரிகள் இந்த பிரிவை எதிர்க்கிறார்களா என்று அறிய விரும்புகிறேன்."

SRI K. RAJARAM :—" அதே மாதிரி, அந்தப் பக்கத்தில் வராதவர்கள் amendment-ஐ எதிர்க்கிறார்களா என்று கேட்கிறேன்? "

A poll was demanded and the House divided as follows :—

12-40  
p.m.

*Ayes—31.*

Sri A. Veloo.  
" P. Kandaswami Gounder.  
" A. Senapathi Gounder.  
" T. Shanmugham.  
" N. Rathina Gounder.  
" S. Swayamprakasam.  
" Mookiah Thevar.  
" K. Moidu.  
" O. Koran.  
" P. Kunhirama Kidav.  
" M. Narayana Nambiar.  
" S. S. Kolkebaill.  
" K. T. Sridharan.  
" M. Narayana Kurup.  
Dr. K. R. Menon.  
Sri M. Manickasundaram,  
" R. Krishnan.

Sri C. H. Kanaran.  
" E. T. Kunhan.  
" K. Madavan Nambiar.  
" P. Venkatesha Sholagar.  
" T. S. Arthanari.  
" A. K. Subbiah.  
" N. Sivaraj.  
" S. Vadivelu.  
" P. K. Gopalakrishnan.  
" S. Vadivelu.  
" V. R. Krishna Ayyar.  
" S. Ramalingam.  
" T. C. Narayana Nambiar.  
" K. P. Gopalan.  
" M. Kalyanasundaram.

*Noes—51.*

The Hon. Sri C. Subramaniam.  
Sri K. Rajaram Naidu.  
" B. Bhakthavatsalu Naidu.  
" S. C. Virupakshiah.  
" R. Kuppuswami.  
" S. R. Arumugam.  
" N. Mounaguruswamy Naidu.  
" P. G. Manickam.  
" S. Lakshmana Gounder.  
Dr. U. Krishna Rao.  
Sri K. Venkataswamy Naidu.  
" N. Ramakrishna Ayyar.  
" O. Venkatasubba Reddi.  
" T. P. Elumalai,

Sri S. Panchaksharam.  
" A. Ramachandra Reddiar.  
" R. Thangavelu.  
" A. Sambasivam.  
" O. A. Nanjappa.  
" P. M. Munuswami Gounder.  
" M. S. Munisamy Pillai.  
" V. Muthu.  
" R. M. Palanivappan.  
" C. Muthiah Pillai.  
" O. Chengam Pillai.  
" Y. Manjaya Shetty.  
" I. K. Subramania Pillai.  
" M. Chinnathambi Thevar,  
" P. B. K. Rajachidambaram.



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Sri V. Arumugam.  
 „ P. Urkavalan.  
 „ T. Ganapathy.  
 „ R. V. Swaminathan.  
 „ A. Vaikuntam  
 „ K. Parthasarathi.  
 „ P. S. Krishnaswami Iyengar.  
 „ Ar. A. Rm. Chockalingam Chettiar,  
 „ G. Govinden.  
 „ M. G. Muthukumaraswamy.  
 „ M. Marimuthu.  
 „ V. Krishnaswamy Padayachi.

Sri M. Dharmalingam.  
 „ K. R. Viswanathan.  
 „ S. Radhakrishnan.  
 „ T. Manavalan.  
 „ V. R. Nagarajan.  
 „ N. Gopala Menon.  
 „ G. Samia Koorayar.  
 „ K. H. Bomman.  
 „ K. P. Kuttukrishna Nayar.  
 „ M. Jagannathan.

*Neutral—Nil.*

Ayes—31; Noes—51; Neutral—Nil.

SRI T. C. NARAYANAN NAMBIAR :—“ On a point of order, Sir.”

MR. SPEAKER :—“ What is the point of order now. Is it about voting? ”

SRI T. C. NARAYANAN NAMBIAR :—“ Hon. Members of this House are expected to vote according to their conscience.”

MR. SPEAKER :—“ That is not a point of order. I shall allow the hon. Member to speak after the result is announced. If there is anything wrong in the voting, I can understand his speaking now. This is not the time for hon. Member to speak about ‘conscience’ and he can do it afterwards.”

The motion was declared lost.

SRI T. C. NARAYANAN NAMBIAR :—“ On a point of order, Sir, every hon. Member is expected to vote according to his conscience. The hon. Member Sri Panchaksharam was vehemently fighting for the acceptance of this amendment but he voted against it.”

MR. SPEAKER :—“ How could the Chair be responsible for it? The hon. Member has not raised a point of order.”

\* THE HON. SRI C. SUBRAMANIAM :—“ Hon. Members come here with a view to convert and to get converted. They should not adopt an attitude adopted by the Members of the Communist Party and, according to me, they are not functioning properly as Members.”

\* SRI S. PANCHAKSHARAM :—“ I have forestalled the hon. Member opposite, and said that we are here sworn to die for the Party and vote for it. We are coming forward with our amendments to suggest to the Government our views on certain matters as we have no other forum to do so. So, there is no point of order.”



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SRI K. P. KUTTIKRISHNAN NAIR :—“ Sir, casting aspersions on hon. Members comes under ‘breach of Privilege’.”

MR. SPEAKER :—“ It does not come under it. But if the hon. Member thinks that it is a breach of privilege, let him give notice of a motion to that effect.”

SRI M. NARAYANA KURUP :—“ The hon. Member, Sri Panchaksharam, said that he would die for his Party. Is he aware of the advice of Mr. Churchill that the duty of the Member is first to the country, then to the constituency and then to the Party.”

MR. SPEAKER :—“ The hon. Member is going away from the main point. Now I am not going to allow further debate on it. Is the hon. Member, Sri Panchaksharam withdrawing his amendment.”

SRI S. PANCHAKSHARAM :—“ I am withdrawing it.”

The amendment of Sri S. Panchaksharam was by leave of the House withdrawn.

The amendments of Sri P. K. Gopalakrishnan were by leave of the House withdrawn.

The amendment of Sri S. Panchaksharam was by leave of the House withdrawn.

The amendment of Sri P. S. Krishnaswamy Ayyangar was by leave of the House withdrawn.

The amendment of Sri Y. Manjaya Shetti was by leave of the House withdrawn.

The amendment of Sri P. K. Gopalakrishnan was by leave of the House withdrawn.

MR. SPEAKER :—“ Is the hon. Member Sri Kalyanasundaram, withdrawing his amendment? ”

SRI M. KALYANASUNDARAM :—“ I am not withdrawing it.”

MR. SPEAKER :—“ The question is—

‘ Add the following as new sub-clause (h) :—

“(h) Where the land is a building situated in a panchayat or municipal area ten times the panchayat or municipal assessment as the case may be.” ”

The amendment was put and lost.



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MR. SPEAKER :—“ Is the hon. Member, Sri Ramalingam, withdrawing his amendment? ”

SRI S. RAMALINGAM :—“ I am not withdrawing it.”

MR. SPEAKER :—“ The question is—

‘ After the existing sub-clause (2), insert the following new sub-clause :—

“ (3) The market value of the house shall be deemed to be ten times of the municipal or panchayat board tax as the case may be.” ”

The amendment was put and lost.

MR. SPEAKER :—“ The question is—

‘ That Clause 7 do stand part of the Bill.’ ”

SRI M. NARAYANA KURUP :—“ Though the Hon. Minister for Finance has won but still there is time for him to fulfil our expectations.”

The clause was put and carried.

Clause 8 was put and carried.

#### Clause 9.

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move the following amendment which stands in my name :—

‘ For the words “ where the fees chargeable thereunder are different, be chargeable only with the highest of such fees ”, substitute the words “ where the fees respectively chargeable in respect of the several documents falling under those several descriptions are equal, be chargeable with only one such fee and where such fees are unequal, be chargeable with that fee alone which is either the highest or one of the highest of such fees ”.’ ”

SRI M. JAGANNATHAN :—“ I second it.”

MR. SPEAKER :—“ Amendment moved—

‘ For the words “ where the fees chargeable thereunder are different be chargeable only with the highest of such fees ”, substitute the words “ where the fees respectively chargeable in respect of the several documents falling under those several descriptions are equal, be chargeable with only one such fee and where such fees are unequal, be chargeable with that fee alone which is either the highest or one of the highest of such fees ”.’ ”

Now both the clause and the amendment are before the House for discussion.”



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\* SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, Clause 9 deals with documents falling under two or more descriptions. In each case what is the fee to be levied on such documents is the question to be considered now. This clause says—

‘ . . . a document falling within two or more descriptions in this Act shall, where the fees chargeable thereunder are different , . . . ’

Suppose there are four categories of documents. For instance, three categories of documents may bear a court-fee of Rs. 50 each and the fourth category may bear a fee of Rs. 25. That means three categories will bear the equal fee while the fourth will bear a lower fee. What is to happen in such cases. This clause as it is worded, indicates that all the four documents should bear different fees but there is no provision to meet a case mentioned by me. My amendment seeks to make the point clear and with that object, I move my amendment—

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p.m.

*‘ For the words “ where the fees chargeable thereunder are different, be chargeable only with the highest of such fee ”, substitute the words “ where the fees respectively chargeable in respect of the several documents falling under those several descriptions are equal, be chargeable with only one such fee and where such fees are unequal, be chargeable with that fee alone which is either the highest or one of the highest of such fees ”. ’*

If the fees chargeable are all equal, it will be chargeable only with one such fee and where such fees are unequal, it will be chargeable with that fee alone which is either the highest or one of the highest of such fees. Suppose a document falls under three descriptions under which the fee chargeable is the same. To make provision for such cases, I have stated ‘ or one of the highest of such fees ’. I think this amendment will be accepted.”

\* THE HON. SRI C. SUBRAMANIAM :—" I do not think it is necessary to amend this clause. We have adopted the language in section 6 of the Stamp Act and it has not created any difficulties so far. I do not think this amendment is necessary, even though I do agree that perhaps it could have been expressed more explicitly. I do not think that the clause, as it is, will lead to any difficulty.”

\* SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, when I drafted the amendment, I was also aware of the fact that these words are found in a previous Act. If due to inadvertence some mistake has crept into that Act, it is not necessary that we should continue the same mistake or drafting error in a subsequent statute also. Our object should be to make improvements from time to time and if that principle is accepted, the mere fact that these words are found in a previous Act need not be a ground for rejecting this amendment. This is all that I wish to say.”



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MR. SPEAKER :—" Is the hon. Member withdrawing his amendment? "

SRI P. S. KRISHNASWAMY AYYANGAR :—" Sir, I am withdrawing it."

The amendment was, by leave, withdrawn.

MR. SPEAKER :—" The question is—

' That Clause 9 do stand part of the Bill.' "

Clause 9 was put and carried.

#### Clause 10.

The Clause was put and carried.

#### Clause 11.

MR. SPEAKER :—" The motion is—

' That Clause 11 do stand part of the Bill.' "

SRI S. PANCHAKSHARAM :—" Sir, I move—

' *In the first proviso, add at the end " who shall decide the same ".*' "

The amendment was duly seconded.

MR. SPEAKER :—" Amendment moved—

' *In the first proviso, add at the end " who shall decide the same ".*' "

\* SRI S. PANCHAKSHARAM :—" My amendment is a simple one. Sir, it is something like a 'reference' that is mentioned in the Civil Procedure Code under which if a Judge feels that there is a difficult question of law involved, he can make a reference to the High Court and the decision of the High Court will be final. If the reference to the Taxing Officer is to have a similar effect, then we should say that the decision of the High Court Judge should be final. I have stated that the words 'who shall decide the same' shall be added at the end of the first proviso."

\* THE HON. SRI C. SUBRAMANIAM :—" Sir; there are the words 'Provided further that, when the case comes up for disposal before the Court, the decision of the Taxing Officer may be reviewed by the Court'. The words 'may be reviewed' includes taking a decision."

The amendment of the hon. Member Sri S. Panchaksharam, was by leave, withdrawn.



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MR. SPEAKER :—" The question is—

' That Clause 11 do stand part of the Bill.' "

Clause 11 was put and carried.

*Clause 12.*

MR. SPEAKER :—" The motion is—

' That Clause 12 do stand part of the Bill.' "

There are a number of amendments to this Clause and the hon. Members who have given notice of them may move their amendments."

SRI P. K. GOPALAKRISHNAN :—" Sir, I move—

' For the existing clause, substitute the following :—

" 12. (1) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this Chapter on a plaint or memorandum of appeal, shall be decided by the Court in which such plaint or memorandum, as the case may be is filed, and such decision shall be final as between the parties to the suit.

(2) But whenever any such suit comes before a Court of Appeal, reference or revision, if such Court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and in such case the suit shall be stayed until the additional fee is paid, if the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed ". "

SRI S. RAMALINGAM :—" Sir, I second the amendment."

SRI M. NARAYANA KURUP :—" Sir, there are four amendments to this Clause, standing in my name (Nos. 78 to 81). I move—

' In sub-clause (1), line 2, after the words " the Court " insert the words " or the officer entitled to receive the plaint ". "

Add the following proviso to sub-clause (1) :—

" Provided that the Officer may refer the question of proper fee to the Court in cases of dispute or where necessary."

In sub-clause (2), line 1, after the words " Any defendant ", insert the words " not being a pro forma defendant against whom no relief is claimed ". "

In the Explanation under sub-clause (3), line 1, after the word " apply ", insert the words " if the question raised is substantially the same as raised previously and decided or ". "



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SRI K. T. SRIDHARAN :—“ I second the above amendments.”

SRI S. RAMALINGAM :—“ Sir, I move—

*‘ In sub-clause (1), for “ being however subject to . . . in the succeeding sub-sections ”.*

*Omit sub-clause (2) to (5).’ ”*

The amendments were duly seconded.

SRI S. PANCHAKSHARAM :—“ Sir, I move the amendments standing in my name (Nos. 204 to 208) :—

*‘ In sub-clause (1) omit the words “ and on the materials contained . . . section 10 ”.’*

*In sub-clause (1), omit the words “ payable thereon . . . succeeding sub-sections ”.’*

*In sub-clause (2) for the words “ before the first hearing . . . merits of the claim ” occurring in lines 1 and 2, substitute the words “ before other issues are framed on the merits of the claim ”.’*

*In sub-clause (2), in line 10, for “ fix a date ”, substitute “ grant such time as it thinks fit ”.’*

*In sub-clause 4 (b), add at the end “ or extended by it ”.’ ”*

SRI N. MOUNAGURUSWAMI NAIDU :—“ Sir, I second the amendments.”

SRI M. KALYANASUNDARAM :—“ Sir, I move—

*‘ In sub-clause (1) for the words “ the decision . . . succeeding sub-sections ” substitute the words “ and the decision shall be final ”.’*

*Omit sub-clause (2).’*

*‘ Omit sub-clause (3) and the “ Explanation ”.’ ”*

SRI T. C. NARAYANAN NAMBIAR :—“ Sir, I second the amendments.”

MR. SPEAKER :—“ The Clause as well as the amendments are before the House for discussion.”

\* SRI M. NARAYANA KURUP :—“ Sir my amendments Nos. 78 and 79 are inter-related. Clause 12 empowers the Court to fix the proper court fees. We know that sometimes the Judges may not be sitting and it is generally the Sheristadar in the Sub-Court or the District Court and the Head Clerk in the Munsif's Court that receive the plaints. My first amendment seeks to include the words ‘ or the officer entitled to receive the plaint ’ after the words ‘ the Court ’. It will only enable the officer also to receive the plaint, but that does not take away the jurisdiction of the court, because my next amendment (No. 79) seeks



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to add the following proviso ' Provided that the officer may refer the question of proper fee to the court in cases of dispute or where necessary '. Even before the court actually reopens, parties are entitled to file plaints and it is the officer that is empowered that received the plaints. Therefore, I want the power to be given to that officer to decide what is the proper court-fee.

" My next amendment (No. 80) seeks to add the words ' not being a *pro forma* defendant against whom no relief is claimed ' after the words ' Any defendant '. The principle is that the court-fee payable on a plaint is decided on the allegations contained in the plaint. A very radical innovation has been made in this Act which gives the right to question the court-fee to the defendants also. That principle has been accepted, but I want to say that that right should be confined only to the defendants who have raised valid pleas in the suit. For instance, in a suit on a simple mortgage, generally the tenants in possession are also added. No relief is claimed against them and persons of that type are called *pro forma* defendants. So, it will be a knotty question whether such defendants against whom no relief is claimed are entitled to raise the question of the court-fees. This may lead to unnecessary complication. I therefore want that the right should be confined to the defendants who have valid pleas in the suit and against whom relief is claimed.

" My next amendment relates to the finality for raising such points. For instance, it is stated that the heirs and successors of a defendant will be bound if his predecessor or representative in interest has raised the question. There is no objection to that. Suppose a defendant has got eight heirs. Due to some oversight, only seven of them are impleaded. They raise a question of court-fee and it may be found either this way or that. But subsequently the eighth defendant is impleaded. Under the Clause as it stands, the eighth defendant will also be entitled to rake up the question afresh and the whole question must be decided. What I say is that if the question raised is substantially the same as raised previously or has been decided before, because due to some oversight the man has not been impleaded as a party to the proceeding, he should not be given the power to rake up the question. That is the point which I wish to raise by my amendment."

SRI V. R. KRISHNA AYYAR :—" Sir, the provisions contained in Clause 12 is a wide departure from the one contained in section 12 of the present Act. With regard to valuation of suits there must be some finality at a very early stage. There should not be opportunities for appeal, second appeal, re-opening of decisions, etc. If there is no finality in the matter of valuation of suits and determination of court-fees to be payable even at a very early stage, the ascertainment of court-fees itself will become a fruitful source of litigation. The provision incorporated in Clause 12 is very different from that contained in section 12 of the present Act. The decision of the original court as regards



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the fee to be paid is subject to review, further review and correction as provided for in the various sub-clauses of Clause 12. A defendant, added after issues have been framed, may plead that the suit has not been properly valued. I submit, Sir, that this clause is riddled with mischief. If a person goes to a court, he must know what exactly is the court-fee to be paid even at the early stage of litigation. But under the provisions contained in Clause 12, he will not be able to know what is the court-fee to be paid even at the late stage of litigation. When somebody is added as a defendant after issues have been framed, it is open to the new defendant to plead that the subject matter of the suit has not been properly valued. Every time a defendant is added, the issue of revising the court-fees will be raised. Therefore, if there is no finality in this matter of determination of court-fees the very act of ascertainment of court-fees will become a source of litigation. In this clause we find that all kinds of new ideas have been brought in, which give a sort of vested interest to the defendants. I therefore submit that the principles contained in this clause cannot be accepted."

SRI T. C. NARAYANAN NAMBIAR :—" Sir, I support the amendment moved by hon. Member Sri P. K. Gopalakrishnan. If the clause is approved as it is, more time will have to be spent in the determination of court-fees to be paid itself. When parties go to court to settle some dispute between them they are not in a position to come to an amicable settlement outside the court. As soon as a person presents a plaint in a court of law, the presiding officer must at once determine the amount of court-fees to be paid. Once that is settled, it must not be reopened again in the same court or in other higher courts. I submit, Sir, that even at the very first stage, the amount of court-fees to be paid should be decided and under no circumstances this matter should be dragged on. The people should not be put to the necessity of spending more money on this issue of determination of court-fees, than to be spent on the subject-matter of litigation itself."

SRI P. K. GOPALAKRISHNAN :—" Sir, the amendment I have given notice of contains the actual provisions contained in section 12 of the existing Court Fees Act. The present clause 12, instead of simplifying the procedure, of determining the court-fees to be paid is making it more difficult. According to the provisions in clause 12, every time a defendant is newly added, it is open to him to plead that the subject-matter of the suit has not been properly valued. It has been provided in clause 12 that the decision of the original court is 'subject to review, further review and correction, in the manner specified in the succeeding sub-sections'. This means, Sir, that the determination of court-fees itself will take a long time. Once the presiding officer of the court applies his mind and comes to a decision with regard to the amount of court-fees to be paid, his decision must be final and defendants newly added at a later stage should not be allowed to raise this issue of valuation of suits and consequent determination of court-fees. If we allow the clause as it is, much of the time of the



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courts will be spent in determining court-fees to be paid in each case. I think, Sir, the existing provisions in section 12 of the present Act may be allowed to remain as it is. That is why, Sir, I have given the existing section 12 itself as my amendment."

**SRI S. RAMALINGAM** :—"கனம் சபாநாயகர் அவர்களே, கோர்ட்டு fees சம்பந்தமான இந்த பன்னிரண்டாம் பிரிவைப் பற்றி பேசும்போது, p.m. சில விஷயங்களை குறிப்பிட விரும்புகிறேன். பிரதிவாதிகள் ஆட்சேபணை செய்தால், அதன்பேரில் வாதி செலுத்தியிருக்கிற கோர்ட்டு fees-ஐ பற்றிய விசாரணையை கோர்ட்டுகள் செய்யலாம் என்று இந்தப் பிரிவில் குறிப்பிடப்பட்டிருக்கிறது. அதைத்தான் அங்கத்தினர்கள் பலர் ஆட்சேபித்து இருக்கிறார்கள். இதற்கு முன்பே, இங்கு பேசும்போது எல்லாம், அங்கத்தினர்கள் குறுகிய காலத்தில் எளிய முறையில் நியாயம் கிடைக்க வேண்டும் என்பதை பலதடவை எடுத்துக் காட்டியிருக்கிறார்கள். சர்க்காரும் ஓரளவிற்கு இந்தக் கொள்கையை ஒத்துக்கொண்டிருக்கிறார்கள். அப்படியிருக்க, நடைமுறையில், வாதி கோர்ட்டு fees கூட கட்டவேண்டுமா, அல்லது குறைவாக கட்டவேண்டுமா என்பதில் பிரதிவாதி, அக்கரை காட்ட வேண்டும் என்று செய்திருப்பது சரியில்லை. கோர்ட்டு fees-ஐ பற்றிய அக்கரை சர்க்காருக்கு இருக்க வேண்டுமேயன்றி, பிரதிவாதிகளை அக்கரை செலுத்தச் செய்திருப்பது, அவர்கள் எப்படியாவது வழக்கை இழுத்துக் கொண்டேபோய், முறியடிக்க வேண்டுமென்ற எண்ணத்தின் வாத செலுத்தியிருக்கிற கோர்ட்டு கட்டணம் குறைவாக உள்ளது என்று வாதாட வசதி யளிக்கிறது. அதுமட்டுமல்லாமல், புதிதாக பிரதிவாதிகள் சேர்க்கப் பட்டால், அவர்கள் வாதத்தின்பேரிலும் கோர்ட்டு fees-ஐ பற்றிய விசாரணை செய்யலாம்; புதியதாக ஒரு Issue சேர்த்துக்கொண்டால், அதன்பேரிலும் விசாரணை செய்யலாம்; இன்னும் கோர்ட்டார் நினைத்தால், சர்க்காருக்கு நோட்டீஸ் கொடுத்துவிட்டு, அவர்களையும் கூப்பிட்டு விசாரணை செய்யலாம்; Court-fee Examiners என்று சர்க்கார் ஏற்படுத்தியிருக்கிறார்கள். அவர்கள் பல மாதங்கள் கழித்து, Court-fees-ஐ பற்றிய பரிசீலனை செய்யும்போது, கட்டப்பட்டிருக்கிற கோர்ட்டு fees குறைவு என்று சொன்னாலும், அதன் பேரிலும் விசாரணை செய்யலாம், என்றிருக்கிறது. இப்படிப் பார்த்தால் Court-fees-ஐ பற்றிய விசாரணை ஏழு, எட்டு தடவைகள் நடக்கும்போலிருக்கிறது. இவ்வளவு விரிவாக அதிகமான விசாரணைகளை கோர்ட்டு fees சம்பந்தமாகவே நடத்திக்கொண்டு போனால் தரவாவின்பேரில் விசாரணை செய்ய எவ்வளவு காலமாகும். இதன் விளைவாக கட்சிக்காரர்களுக்கு எவ்வளவு தொந்தரவுகள் ஏற்படும் என்பதை சர்க்கார் எண்ணிப் பார்க்க வேண்டும். ஆகவே, கோர்ட்டில் இருக்கக்கூடிய உத்தியோகஸ்தர்களில் Chief Clerk அல்லது Head Clerk அவர்கள் பார்த்து இறுதியாக முடிவு செய்ய விட்டுவிடலாம், அல்லது கோர்ட்டிற்கே அந்த முடிவு செய்யும் அதிகாரத்தை விட்டுவிடலாம். இந்த முறைதான் தற்போது நடைமுறையில் இருந்து வருகிறது. இந்த முறையினால் சர்க்காருக்கு நஷ்டம் வந்திருப்பதாக எனக்குத் தெரியவில்லை. கோர்ட்டுகளில் இருக்கக் கூடிய ஐட்ஜுகள் சர்க்காருக்கு வரக்கூடிய வருமானத்தை விட்டுக் கொடுத்து விடுவார்கள் என்ற அவநம்பிக்கை சர்க்காருக்கு ஏற்படவேண்டிய அவசிய மில்லை. ஆகவே இதற்காக ஒரு புதிய, பெரிய procedure ஏற்படுத்த தேவையில்லை. குறுகிய முறையில் Court-fees-ஐ நிர்ணயிப்பதற்கு என்ன procedure தேவையோ, அதைச் செய்யவேண்டுமென்று கேட்டுக்கொண்டு, முடித்துக்கொள்ளுகிறேன்."

**SRI M. KALYANASUNDARAM** :—"கனம் சபாநாயகர் அவர்களே, இந்தப் பிரிவானது மிகவும் விஷமத்தனமாக இருக்கிறது என்று நான் கருதுகிறேன். சர்க்காரின் நோக்கம் வாதிக்கும், பிரதிவாதிக்கும் இருக்கும் தகராறை தீர்த்து நியாயம் வழங்க வேண்டுமென்பதா, அல்லது வாதியும், பிரதிவாதியும் இன்னும் அதிகச் சண்டை போட்டுக் கொள்ள வேண்டுமென்பதா என்று எனக்குப் புரியவில்லை. சர்க்காரை பொருத்தவரை, கோர்ட்டு fees சம்பந்தப்பட்ட மட்டுமே, வாதி சர்க்காரை எமாற்றாமல் பார்த்துக்கொள்ள வேண்டியது அவசியம் என்பதை ஒத்துக்கொள்ளுகிறேன். அதற்காக, ஆரம்பத்திலேயே, வாதி கோர்ட்டு

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டில் தாவாவை சமர்ப்பித்த உடனே, எவ்வளவு விரிவான பரிசீலனை வேண்டுமானாலும் நடத்திக் கொள்ளட்டும். அப்படி எடுக்கப்படும் முடிவு அந்தக் கோர்ட்டு சம்பந்தப்பட்ட வரையில் இறுதியாக இருக்கவேண்டும். இதுதான் ஏற்கனவே நடைமுறையில் இருக்கின்ற முறை. இந்த முறையில், இப்பொழுது புதிதாக மாறுதல் செய்யவேண்டிய அவசியம் என்ன வென்பது எனக்குப் புலப்படவில்லை. வாதி செலுத்தியிருக்கிற கோர்ட்டு fees போதுமா, போதாதா, நியாயமாக செலுத்தப்பட்டு இருக்கிறதா என்ற பிரச்சனையை கிளப்பக்கூடிய அதிகாரம், பிரதிவாதிக்கு கொடுக்கப்பட்டிருக்கிறது என்று ஏற்பட்டால், ஒவ்வொரு வியாஜ்ஜியத்திலும் கோர்ட்டு fees பேரில் ஒரு தனி வியாஜ்ஜியம் நடக்கக்கூடிய நிலைமை ஏற்படும். இதனால் பணம் படைத்தவர்களுக்குத்தான் அனுகூலம் ஏற்படும். பிரதிவாதி பணம் படைத்தவரைக் கிரந்தால், வாதி நியாயத்தை சுலபமாக பெற முடியாது. இதனால் எல்லையற்ற தகராறுதான் ஏற்படும். புதிய Issue-ஏற்பட்டு விடுமேயானால், அதன் விளைவாக மதிப்பீட்டில் மாறுதல் ஏற்படலாம். ஆகவே அதன்பேரில் Court-fees-ஐப் பற்றிய விசாரணை நடத்துவதில் நியாயம் இருக்கிறது என்று ஒப்புக்கொள்ளலாம். ஆனால் அந்த Court fee பிரச்சனையை கிளப்ப வேண்டிய பொறுப்பு யாருடையது? கோர்ட்டின் பொறுப்பா, பிரதிவாதியின் பொறுப்பா? பிரதிவாதிக்கு என்ன அவ்வளவு அக்கரை வந்திருக்கிறது. கோர்ட்டு தானாகவே புது Issue-க்கள் frame-செய்திருப்பதால், மதிப்பீடு மாறியிருக்கிறது. இதனால் வாதி புதிய Court-fee கட்டணம் செலுத்தவேண்டிய நிலைமை ஏற்படுமேயானால் கோர்ட்டார்தான் அந்தப் பிரச்சனையை எழுப்ப வேண்டியே தவிர, இரண்டு சந்தர்ப்பங்களிலும் பிரதிவாதி கையில் பிரச்சனையை விட வேண்டிய அவசியம் கிடையாது. பிரதிவாதி கையில் இந்த Court-fee-பிரச்சனையை விடுவதானது, வாதிக்கும், பிரதிவாதிக்கும் இடையே உள்ள தகராறை தீர்த்து வைப்பதற்கு பதிலாக, அதிகப்படுத்த, முற்ற வைக்கத்தான் வழி செய்யும் என்பதைத் தெரிவித்துக்கொள்ள விரும்புகிறேன். எனவே, இந்த பிரிவை ஆட்சேபிப்பதுடன் கொண்டுவரப்பட்டிருக்கும் திருத்தங்களை சர்க்கார் ஏற்றுக் கொள்ளவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.”

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\* SRI P. RANGASWAMY REDDIAR:—“ Mr. Speaker, clause 12 (5) provides for preliminary enquiry on the question of court-fees before deciding to record evidence affecting the merits of the claim. I want to draw the attention of the Hon. the Finance Minister to a provision in the Civil Procedure Code for trying certain issues in cases in which issues are to be framed. Certain issues can be tried as preliminary issues. Now, several High Courts have pointed out the undesirability of disposing of suits on preliminary issues. Even though the issue may dispose of the entire case, and even though the issue may affect vital questions and it may be crystal clear such as limitation, etc., the High Courts have pointed out the undesirability. Because, the Courts felt that the clients may have a tendency to drag on the proceedings and they may go up to the highest court on the question of preliminary issues. Therefore, they have pointed out that the cases should be decided in respect of all issues on merits. Such is the practice now. By introducing a clause like sub-clause (5) of clause 12, the cases may drag on for a long time. The amendment moved by Sri P. K. Gopalakrishnan which consists of 10 lines in the place of 40 lines given in the Bill makes the position clear and may be accepted, and thus much time and money may be saved.”

\* THE HON. SRI C. SUBRAMANIAM:—“ Sir, the first principle involved in this clause is contained in sub-clause (5), which states, ‘All questions as to value for the purpose of determining



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the jurisdiction of courts arising on the written statement of a defendant shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim'. Before the trial of the case is begun, the payment of court-fees and other things have to be decided. All other things are only procedural giving opportunities to a party to bring to the notice of the court certain facts. That is all and there is nothing more than that. Secondly, it is the court which will have to decide whether the proper court-fee has been paid or not. The defendant will be entitled to bring to the notice of the court certain facts which he may consider necessary before the trial begins or before the evidence is recorded in respect of matters arising on pleas of limitation and the like. There is always this limitation. So, it is a matter of procedure which is adopted here. But, there is one new principle which we have adopted here. As it is, the court-fee is payable only on the allegation contained in the plaint. But now we have said that the court must make into consideration all facts given in the written statement of the defendant and find out the true nature of the case. Sir, by expert pleading, it is quite possible to overcome the necessity to pay higher court-fee by evading certain facts in the plaint. For example, if it is merely a declaratory suit, a certain court-fee is payable. If the plaintiff also wants possession, then a higher court-fee will have to be paid. The plaint could be so drafted that it will be taken to mean as a suit for declaration only and a small court-fee will be paid according to this. Now, when the defendant comes to the court and says, 'No, no. This cannot be a mere suit for declaration. As a matter of fact, I am in possession of the property. Therefore, if the plaintiff wants any relief, he should have asked for both declaration as well as possession'. Then, the court has to finally decide what the issues are that it has to frame; i.e., whether the suit is merely for a declaration or for possession as well. If it is to be considered as a suit for possession also, even though this fact may not have been made clear in the plaint by expert pleading by expert lawyers, the court will have to ask the plaintiff to pay a higher court-fee. Only when all the facts in respect of a particular case are before the court, the real nature of the suit becomes evident and it becomes possible to frame definite issues. It is not as if one category of suit alone will be dealt with by the courts. The courts must have all the facts before them to frame the issues. When it is found that particular suit is not merely for declaration but also for possession, the plaintiff will be called upon to pay additional court-fee. Sir, this point has also been commented upon by the various High Courts. Clever lawyers draft their plaint in such a way that the real nature of the suit is found out only when all the facts of the case are gone into. That is why we have the present provision in sub-clause (5)."

\* SRI V. R. KRISHNA AYYAR:—"Sir, there is another difficulty. The defendant equally and ably assisted by clever lawyers may take advantage of this provision and try to harass the plaintiff. I would like to know what will happen in certain cases where the plaintiff only wants a declaration. It will be open to



[Sri V. R. Krishna Ayyar] [29th March 1955]

the defendant to raise the question of possession also and say that the plaintiff was also interested in possession and so he may be called upon to pay higher court-fees. Till this question is settled, the defendant will continue to be in possession and if the plaintiff was not able to pay higher court-fees, his suit will also be dismissed on this ground. If a trial was allowed, the plaintiff would have been in a position to explain his standpoint. He loses this chance now."

\* THE HON. SRI C. SUBRAMANIAM :—" Sir, if the hon. Member goes through the provisions, he will find that even though such an issue is raised by the defendant, the plaintiff can very well say, 'I do not care for possession. I only want a declaration. The suit is only a declaratory suit.' The court may dispose of the case only so far as it related to declaration. So, the hon. Member's point is adequately met by the existing provisions. But, when the defendant raises this question of possession and also wants that matter to be decided, he will be called upon by the court to pay additional court-fee. That is what we have made clear here and there is nothing more than that, Sir."

\* SRI S. PANCHAKSHARAM :—" Sir, I am sorry to intervene in the debate. I wish to point out to the Hon. the Minister for Finance that 'declaration by itself cannot form a prayer in any plaint. There must be some other prayer which will flow from out of that declaration. There is declaration with reference to status as for instance, reversionary rights, right to succeed to property after the death of a limited owner and all that. That may be declaration with reference to status alone and it is governed by section 42 of the Specific Relief Act. Sir, the Court Fees Act does not contemplate such declarations alone. The declarations must necessarily be followed by some other relief also either in the shape of possession or in the shape of injunctions restraining some party from interfering with possession or the appointment of receivers. Apart from section 42 cases there cannot be a pure and simple suit for declaration."

1-20 p.m. SRI M. NARAYANA KURUP :—" The law as enunciated is not correct. There is a certain class of suits intended 'to remove the cloud of title'. What I ask is to see that the document is allowed."

\* THE HON. SRI C. SUBRAMANIAM :—" Yes, Sir, that is also my recollection. It is three or four years since I went to a court. There are certain classes of suits in which only a declaration is asked for and nothing more. But if as a matter of fact consequential relief has to be prayed for and still he does not, other things follow. But there are suits where mere declaratory relief is sought for. If issues are framed with reference to facts we ask him to pay court-fees with reference to the issues framed. But here it is not a question of possession. The party says: 'I will be quite content with what I ask for. If on that account my suit fails I take the risk'. That is to say, in that case, he need



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not pay the court-fees. If you ask an issue to be framed and that changes the nature of the suit, then on that basis court-fee will have to be paid."

SRI M. NARAYANA KURUP :—" If the plaintiff takes the risk, he need not pay court-fees. Clause 13 says that if the issue is framed and the court-fee is not paid, the penalty is that the issue will be found against him. It is not that he is allowed to take his stand on other issues."

THE HON. SRI C. SUBRAMANIAM :—" That is why once the issue is framed he is bound to pay the court-fee."

SRI V. R. KRISHNA AYYAR :—" Here it is not as if the issue is framed at the behest of the plaintiff. On the pleadings, the court will raise issues and the plaintiff will have to pay the court-fee. Otherwise he runs the risk of a decision against him. That is not just."

\* THE HON. SRI C. SUBRAMANIAM :—" I do not think that will arise at all. Suppose it is merely a case of a suit for a declaration. As a matter of fact the defendant alleges he is in possession of it. There a mere declaration suit will not lie. Then he takes the risk of merely asking for a declaration. He cannot change the nature of the suit unless it is agreed that, that issue may be gone into. Therefore I do not think that, that would work any great hardship. It is only when issues are framed, the court-fees become payable. The plaintiff might say: 'I know my case is restricted only to a declaration and that alone need be judged'. If it is only for that purpose, then it is a different thing altogether. The defendant is entitled to contest it. But that is done before the evidence is recorded and trial is started. Suppose a certain defendant is not included and brought in later on. It is the fault of the defendant and if he is the legal heir he is bound by the acts of his predecessor-in-interest. If only the hon. Members go through the provisions they will find that all these matters are finalised before the regular trial of the case starts. Various persons interested have been given opportunities to make representations before that stage and not after that. I do not think this will create any complication. The clause makes specific provisions for all these things so that there may be definiteness about all these things and nothing more than that."

" As far as jurisdiction is concerned under the Suits Valuation Act, it has got to be decided before regular trial begins. Even now when the jurisdiction question is specifically raised, it is decided before the regular trial begins. As far as other jurisdiction questions are concerned they are different and they have got to be decided after hearing evidence and other things."

MR. SPEAKER :—" I am now going to put the amendments to the vote of the House. The question is—

' For the existing clause, substitute the following—

" 12. (1) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this



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Chapter on a plaint or memorandum of appeal, shall be decided by the court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

(2) But whenever any such suit come before a Court of Appeal, reference or revision, if such court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been paid to pay so much additional fee as would have been payable had the question been rightly decided, and in such case the suit shall be stayed until the additional fee is paid, if the additional fee is not paid within such time as the court shall fix, the suit shall be dismissed."

The amendment was put and lost.

The amendments moved by Sri M. Narayana Kurup were by leave of the House withdrawn.

The amendments moved by Sri S. Panchaksharam were by leave of the House withdrawn.

MR. SPEAKER:—"The question is—

'(1) In sub-clause (1) for "being however subject to . . . in the succeeding sub-sections" add the following proviso to sub-clause (1)—

"Provided that the Officer may refer the question of fee to the Court in cases of dispute or where necessary."

'(2) Omit sub-clauses (2) to (5).'"

The amendments were put and lost.

MR. SPEAKER:—"The question is—

'In sub-clause (1) for the words "the decision . . . succeeding sub-sections" substitute the words "and the decision shall be final".'"

The amendment was put and lost.

MR. SPEAKER:—"The question is—

'Omit sub-clause (2).'"

The amendment was put and lost.

MR. SPEAKER:—"The question is—

'Omit sub-clause (3) and "Explanation".'"

The amendment was put and lost.

The clause was put and carried.

MR. SPEAKER:—"The House will now adjourn and meet again at 8-30 a.m. tomorrow."

The House then adjourned.